ED 079 840

OVERSIGHT HEARING ON NATIONAL INSTITUTE OF EDUCATION BEFORE THE SELECT SUBCOMMITTEE ON EDUCATION OF THE COMMITTEE ON EDUCATION AND LABOR, HOUSE OF REPRESENTATIVES, NINETY-THIRD CONGRESS

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ABSTRACT

One of the purposes of this hearing was to review the work undertaken by the National Institute of Education (NIE) during the 92nd Congressional period. The document records the concern of the Select Subcommittee on Education that NIE had not yet established the National Council on Educational Research provided for in the legislation. A review is presented of NIE policy on educational labs and centers, on programs inherited from the Office of Education, on research grants, administrative and management activities, and on the planning process for new initiatives. The document also reports progress made to date on the office of the Assistant Secretary for Education (Department of Health, Education, and Welfare), and gives an overview of the functions of the National Committee for Educational Change. Appended materials include tables on the financial outlay of the Assistant Secretary's Office for salaries and expenses, and an organizational chart of that Office. (WM)

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HEARING

BEFORE THE

SELECT SUBCOMMITTEE ON EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

OVERSIGHT INTO THE ADMINISTRATION OF THE NATIONAL INSTITUTE OF EDUCATION

HEARING HELD IN WASHINGTON, D.C., FEBRUARY 6, 1973

Printed for the use of the Committee on Education and Labor

CARL D. PERKINS, *Chairman*

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OVERSIGHT HEARING ON NATIONAL INSTITUTE OF EDUCATION

TUESDAY, FEBRUARY 6, 1973

HOUSE OF REPRESENTATIVES,
SELECT SUBCOMMITTEE ON EDUCATION OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met at 9:45 a.m., pursuant to call, in room 2261, Rayburn House Office Building, Hon. John Brademas (chairman of the subcommittee) presiding.

Present: Representatives Brademas, Grasso, Landgrebe, Peyser, and Sarasin.

Staff members present: Jack G. Duncan, counsel; Gladys Walker, clerk. Martin LaVor, minority legislative associate.

TITLE III—AMENDMENTS RELATING TO THE ADMINISTRATION OF EDUCATION PROGRAMS, PUBLIC LAW 92-318

* * * * * * *

"PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

"THE EDUCATION DIVISION

"SEC. 401. There shall be, within the Department of Health, Education, and Welfare, an Education Division which shall be composed of the Office of Education and the National Institute of Education, and shall be headed by the Assistant Secretary for Education.

"ASSISTANT SECRETARY FOR EDUCATION

"SEC. 402. (a) There shall be in the Department of Health, Education, and Welfare an Assistant Secretary for Education, who shall be appointed by the President by and with the advice and consent of the Senate. The Assistant Secretary for Education shall be compensated at the rate specified for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The Assistant Secretary shall be the principal officer in the Department to whom the Secretary shall assign responsibility for the direction and supervision of the Education Division. He shall not serve as Commissioner of Education or as Director of the National Institute of Education on either a temporary or permanent basis.

"THE OFFICE OF EDUCATION

"SEC. 403. (a) The purpose and duties of the Office of Education shall be to collect statistics and facts showing the condition and progress of education in the United States, and to disseminate such information respecting the organization and management of schools and school systems, and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country. The Office of Education shall not have authority which is not expressly provided for by statute or implied therein.

"(b)(1) The management of the Office of Education shall, subject to the direction and supervision of the Secretary, be entrusted to a Commissioner of Education, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall serve at the pleasure of the President.

"(2) The Commissioner may not engage in any other business, vocation, or employment while serving in any such position; nor may he, except with the express approval of the President in writing, hold any office in, or act in any capacity for, or have a financial interest in, any organization, agency, or institution to which the Office of Education makes a grant or with which it makes a contract or other financial arrangement.

"SUPPORT FOR IMPROVEMENT OF POSTSECONDARY EDUCATION

"SEC. 404. (a) Subject to the provisions of subsection (b), the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experimental learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

"(b) No grant shall be made or contract entered into under subsection (a) for a project or program with any institution of postsecondary education unless it has been submitted to each appropriate State Commission established under section 1202 of the Higher Education Act of 1965, and an opportunity afforded such Commission to submit its comments and recommendations to the Secretary.

"(c) For the purposes of this section, the authority granted to the Commissioner in part D of this Act shall apply to the Secretary.

"(d) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this section who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(e) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975, for the purposes of this section.

"NATIONAL INSTITUTE OF EDUCATION

"SEC. 405. (a)(1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American education system has pursued this objective, it has not yet attained that objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require

far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

"(2) The Congress further declares it to be the policy of the United States to—

"(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

"(ii) advance the practice of education, as an art, science, and profession;

"(iii) strengthen the scientific and technological foundations of education; and

"(iv) build an effective educational research and development system.

"(b)(1) In order to carry out the policy set forth in subsection (a), there is established the National Institute of Education (hereinafter referred to as the 'Institute') which shall consist of a National Council on Educational Research (referred to in this section as the 'Council') and a Director of the Institute (hereinafter referred to as the 'Director'). The Institute shall have only such authority as may be vested therein by this section.

"(2) The Institute shall, in accordance with the provisions of this section, seek to improve education, including career education, in the United States through—

"(A) helping to solve or to alleviate the problems of, and achieve the objectives of American education;

"(B) advancing the practice of education, as an art, science, and profession;

"(C) the strengthening of the scientific and technological foundations of education; and

"(D) building an effective educational research and development system.

"(c)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate. Eight members of the Council (excluding ex officio members) shall constitute a quorum. The Chairman of the Council shall be designated from among its appointed members by the President. Ex officio members shall not have a vote on the Council.

"(2) The term of office of the members of the Council (other than ex officio members) shall be three years, except that (A) the members first taking office shall serve as designated by the President, five for terms of three years, five for terms of two years, and five for terms of one year, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any appointed member who has been a member of the Council for six consecutive years shall thereafter be ineligible for appointment to the Council during the two-year period following the expiration of such sixth year.

"(3) The Council shall—

"(A) establish general policies for, and review the conduct of, the Institute;

"(B) advise the Assistant Secretary and the Director of the Institute on development of programs to be carried out by the Institute;

"(C) present to the Assistant Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

"(D) conduct such studies as may be necessary to fulfill its functions under this section;

"(E) prepare an annual report to the Assistant Secretary on the current status and needs of educational research in the United States;

"(F) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (i) which shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year; and

"(G) meet at the call of the Chairman, except that it shall meet (i) at least four times during each fiscal year, or (ii) whenever one-third of the members request in writing that a meeting be held.

The Director shall make available to the Council such information and assistance as may be necessary to enable the Council to carry out its functions.

"(d)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers and authorities as the Council, subject to the general supervision of the Assistant Secretary, may prescribe. The Director shall be responsible to the Assistant Secretary and shall report to the Secretary through the Assistant Secretary and not to or through any other officer of the Department of Health, Education, and Welfare. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him.

"(2) There shall be a Deputy Director of the Institute (referred to in this section as the 'Deputy Director') who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director and exercise such powers and authorities as the Director may prescribe. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5, United States Code.

"(e)(1) In order to carry out the objectives of the Institute, the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this subsection, the term 'educational research' includes research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education).

"(2) Not less than 90 per centum of the funds appropriated pursuant to subsection (b) for any fiscal year shall be expended to carry out this section through grants or contracts with qualified public or private agencies and individuals.

"(3) The Director may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service and may compensate without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical or professional employees of the Institute as he deems necessary to accomplish its functions and also appoint and compensate without regard to such provisions not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Institute.

"(f)(1) The Director, in order to carry out the provisions of this section, is authorized—

"(A) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the Institute;

"(B) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

"(C) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), United States Code, to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

"(D) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and

testing facilities, computing devices, communications networks and machinery, and such other real and personal property or interest therein as deemed necessary;

"(E) to acquire (by purchase, lease, condemnation or otherwise) and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

"(F) to use the services, computation capacity, communications networks, equipment, personnel, and facilities of Federal and other agencies with their consent, with or without reimbursement. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

"(2) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

"(g) Where funds are advanced for a single project by more than one Federal agency for the purposes of this section, the National Institute of Education may act for all in administering the funds advanced.

"(h) There are hereby authorized to be appropriated, without fiscal year limitations, $550,000,000, in the aggregate, for the period beginning July 1, 1972, and ending June 30, 1975, to carry out the functions of the Institute. Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection until expended.".

(b)(1) The amendments made by subsection (a) shall be effective after June 30, 1972.

(2)(A) Effective July 1, 1972, sections 516 and 517 of the Revised Statutes of the United States (20 U.S.C. 1, 2) are repealed.

(B) Effective July 1, 1972, section 422 of the General Education Provisions Act is amended by striking out "(as set forth in section 516 of the Revised Statutes (20 U.S.C. 1))" and inserting in lieu thereof "(as set forth in section 403(a) of this Act)".

Mr. BRADEMAS. The Select Subcommittee on Education of the House Committee on Education and Labor will come to order for the purpose of oversight hearings on the National Institute of Education, which was authorized by the 92d Congress.

The Chair would like to observe at the outset that we are very pleased to have some new members of our subcommittee. They are not all here today, but we will admonish them to try to be more faithful in their attendance.

For the benefit of observers here today, the members of the Select Subcommittee on Education in the 93d Congress will be Mr. Brademas, of Indiana, chairman; Mrs. Mink, of Hawaii; Mrs. Chisholm, of New York; Mrs. Grasso, of Connecticut; Mr. Lehman, of Florida; Mr. Meeds, of Washington; Mr. Mazzoli, of Kentucky; Mr. Badillo, of New York; and, to my left, Mr. Eshleman, of Pennsylvania; Mr. Landgrebe, of Indiana; Mr. Hansen, of Idaho; Mr. Peyser, of New York; and Mr. Sarasin, of Connecticut. We are very pleased to welcome back the former members of the subcommittee and to meet the new members.

At the outset of these hearings, the Chair would like to recall that he warmly applauded President Nixon's initiative in his March 1970 message to Congress on education, in which he proposed the creation of a National Institute of Education. This subcommittee conducted

lengthy hearings on the proposed National Institute of Education, and members of the subcommittee, both majority and minority, strongly supported the proposal, defended it through the conference with the Senate as part of the Education Amendments of 1972 and defended it on the floor of the House when the education amendments were considered there.

The Chair would also observe that one of the reasons, in his judgment, that the Institute found such warm bipartisan support on this subcommittee, and in Congress generally, was an apprehension on the part of Members of the Congress that we had not benefited adequately from earlier Federal investments in educational research, and that we needed, if we were to improve the quality of education in this country, an effective, visible, and comprehensive educational research effort.

The National Institute of Education was therefore charged with supporting research in education at all levels from the earliest years, indeed throughout life, in both formal and nonformal learning situations.

The Chair would also like to note that, in creating the Institute, the conferees on the Education Amendments of 1972 decided to establish, within the Department of Health, Education, and Welfare, a Division of Education, to be headed by a new Assistant Secretary of the Department for Education. The National Institute of Education and the Office of Education, both with their own policy-making authority, the conferees agreed, were to compose the Education Division.

Therefore, in light of the work that the members of this subcommittee have put into creation of the National Institute of Education, all of us on the subcommittee have a very deep interest in how the Institute is getting along, and the Chair felt it appropriate, at the outset of the 93d Congress, to review the work of the Institute created by the 92d.

We are very pleased to have with us today Dr. Thomas Glennan, the first Director of the National Institute of Education, and subsequently we shall be pleased to hear from Dr. Sidney P. Marland, the Assistant Secretary for Education under the new Secretary, as well as Mr. James McElroy, Executive Director of the National Committee for Educational Change.

Dr. Glennan, you have a very great responsibility as the first Director of the National Institute of Education, and I think you are aware that members of this subcommittee, both Democrats and Republicans, are strongly supporting you in your effort to make the NIE a significant enterprise for the improvement of American education.

So you have strong supporters on this subcommittee and, speaking for himself—and the Chair is sure he reflects the views of other members of the subcommittee—we have an interest only in seeing that the Institute be effective in meeting the purposes for which it was written in the law.

So we are very pleased to welcome you here today and look forward to hearing your views.

STATEMENT OF DR. THOMAS K. GLENNAN, JR., DIRECTOR, NATIONAL INSTITUTE OF EDUCATION

Dr. GLENNAN. Thank you, Mr. Chairman. This is my first foray before the Congress with respect to the affairs of the Institute, and I welcome the opportunity. I hope it is the sort of thing we can do on a continuing basis, because I do know that you have a very deep personal involvement, as well as the rest of your committee, in the organization and the formation of the Institute.

With us this morning, I will introduce at the outset here, Everson Elliott, who is Acting Deputy Director of the Institute and will be named very shortly, as we get out from under the freezes, the Deputy Director of the Institute. As you know, he has been steering the thing through from the very beginning and has been of tremendous assistance to me.

Charles Saunders, Acting Deputy Assistant Secretary for Policy Communication in the Office of the Assistant Secretary, Office of Education, will be here and, if there are issues that come up with respect to the Assistant Secretary before Dr. Marland joins us, he will be able to respond to us.

Judy Pitney, Acting Deputy Assistant of the Office of the Secretary, Office of Education, is on my left.

With your permission, I would like to read what I hope is a fairly brief statement directed to what I understand are some of your concerns, and then we can proceed.

I appreciate this opportunity to give you a status report on the National Institute of Education and to address certain questions which have been raised about the legal basis for some of our activities.

I should like to discuss five areas: the programs of the education laboratories and R. & D. centers, our review of other programs transferred from the Office of Education, our field-initiated studies program, our general regulations, and the planning process underway to plan new initiatives.

LABS AND CENTERS

As you know, NIE has implemented the policy initiated by the Office of Education of shifting support for the education labs and centers from an institutional basis to procurement of specific programs. NIE completed the review, already in process when they were transferred to us, of the labs' and centers' 68 programs and announced on November 10 our decisions to:

Provide contracts for 1 year or less for 26 programs.

Provide 3-year contracts for 22 programs.

Phase out 11 programs.

Provide 2-year contracts for four programs.

Not to fund five proposed new programs.

A total of $34.1 million—compared to $35 million in fiscal year 1972—has been budgeted for the labs' and centers' programs in fiscal year 1973. This $34.1 million includes $1.2 million reserved for management fee awards and sustaining grants to assist the labs and centers in shifting to the new basis of support.

In this instance, the contracts and grants of the labs and centers extended only to December 1972, and we had to make some decisions as to our course of action. It appeared most appropriate to us to, implement the new policy that was already in process and being implemented when we inherited it.

OTHER PROGRAMS INHERITED FROM OE

Thorough reviews have now been completed of three other major programs transferred from the Office of Education—dissemination, career education model development, and experimental schools. We are now preparing recommendations, based on this review process, of the programs' future directions for discussion with the National Council on Educational Research.

In the interim, we have funded only the continuation of expiring grants and contracts for programs inherited from OE. In these cases, we have concluded that the Government had a clear commitment that should be met or had incurred a substantial investment that would be lost if the funding were to lapse.

We believe that these were the minimum responsible actions required under the circumstances. We hope to delay awarding any new grants or contracts in these or any other areas until the National Council has been appointed and has had an opportunity to review and consider our recommendations as to the programs' future directions. That extends to renewing grants or contracts for any substantial period of time, not just any renewal.

Third, with respect to the field-initiated studies program, we have also, as you know, announced the continuation of OE's program of awards to researchers, which we have labeled "field-initiated studies." Let me take a moment first to discuss what we have done and, second, why we did it.

Researchers have been asked to submit proposals on virtually any topic promising to extend knowledge about American education. Colleges, universities, State departments of education, profit and nonprofit public or private institutions, and individuals are eligible to apply for grants in the following areas:

SELECTED DISCIPLINES RESEARCH

This program is designed to encourage those not traditionally concerned with education from the several disciplines—economics, political science, anthropology, and legal research—to apply their expertise to educational problems.

GRANTS FOR RESEARCH IN EDUCATION

Generally this is designed to provide support for established researchers in fields other than the selected disciplines.

SMALL GRANTS RESEARCH

Under this program, support will be provided to qualified but less experienced scholars to come into the field of educational research or established researchers in any field.

While we do not believe that starting this program diminishes the National Council's legislative mandate to "establish general policies" for the Institute, we were reluctant to do so in the Council's absence. Nevertheless, we went forward for several reasons:

Our activities represent essentially a continuation of an area of OE activities transferred to us, activities that are a keystone of our ability to fulfill NIE's legislative mandate to strengthen the scientific and technical foundations of American education.

In the hope that a National Council would be appointed in time to review the field-initiated studies program, we had already delayed its announcement so long that we have given researchers only a minimal time to prepare prospectuses or proposals and our staff only a minimal time to review them responsibly, to negotiate budgets with the proposers, and to process the grants and contracts. Had we delayed any longer, we simply could not have had a field-initiated studies program this fiscal year.

As the name implies, this program responds to initiatives from the field as to the nature and subject matter of the research to be done. We have not—with the exception of the selected disciplines research and of ruling out large-scale development projects—put any restrictions on what activities should be carried out.

In sum, we did not specify any substantive priorities for the research that might be funded, and we carefully gave no indication that sponsoring field-initiated studies would be a continuing NIE policy—although I personally hope that it will be—in order to allow the Council maximum flexibility in its future review of this program.

ADMINISTRATIVE AND MANAGEMENT ACTIVITIES

We have published our general regulations in the Federal Register for the 30-day public review period. These general regulations are almost exclusively procedural. No substantive program areas are addressed.

This is consistent with the NIE statute which says: "The Director is authorized to make, promulgate, issue, rescind and amend rules and regulations governing the manner of operation of the Institute." However, we hope to submit these regulations to the Council, when appointed, for its review before final publication in the Register.

Similarly, we will provide the Congress with a justification of appropriations to amplify the President's fiscal year 1974 budget request, but our justifications will make very clear that the tentative allocations have not been approved by the Council.

In addition, we have moved to guarantee better control over our grants and contracts processes. We have been working toward implementation of the recommendations of the Commission on Government Procurement, for example, by:

Combining the grants and contracts processing in one office, a procedure that permits maximum control and coordination.

Attempting to develop clear definitions of the conditions under which a grant should be awarded and the conditions under which a contract should be let.

Insuring that a grant or contract will be awarded only after a procurement officer has signed it; the signature of a program officer is not sufficient.

Involving the grants and contracts personnel in all phases of our program development, insuring rational implementation of policies with respect to NIE priorities when they are developed.

NIE is an institution which intends to be fully accountable to the Congress, to the education and research communities, and to the public.

PLANNING PROCESS FOR NEW INITIATIVES

Let me turn now to the question of the NIE planning process. We are attempting to construct, from the record of the congressional debate, from the planning papers prepared over the last 2 years, and from other reports and discussions since the legislation was enacted, an initial NIE program structure and program plan. By that, I mean a framework and description which will assist the Council, the NIE staff, educators, researchers, and the general public in understanding how NIE will start to meet the objectives set out for it in the statute.

This will include the discussion of the strategies we could employ and of the program areas where we would begin serious research—systematic studies of the state of our knowledge, exploratory studies, definitions of the research questions, and similar undertakings.

The result of this planning work will be a report for consideration by the Council—a major device, I think, by which that body can carry out its statutory responsibility to give policy guidance to the Institute. The report will also be of considerable assistance in decisions for staffing NIE as well as guiding budget and other management decisions.

Our goal is a structure that encourages a multidisciplinary focus on education problems, that builds quality and integrity into our work, and that insures the responsiveness to the needs and interests of policymakers, researchers, educators, and parents.

I think it is quite obvious, from my remarks, that we have had to pursue a very delicate course over the last few months—begin the process of organizing a new agency and deal with a set of transferred programs without impinging upon the prerogatives of our as yet-to-be-appointed Council. Doing this requires some difficult decisions. In each case, however, we have attempted to respect the rights of the Council while we begin to implement the legislation passed by the Congress.

Ladies and gentlemen, I thank you for your time and will be glad to answer any questions you may have.

Mr. BRADEMAS. Thank you, Dr. Glennan.

Dr. Glennan, I wonder if you could comment on your view of the policymaking authority of the National Council on Educational Research. What is your understanding of what Congress intended when writing that provision into the law?

Dr. GLENNAN. I think the law says very clearly that the council shall provide general policy guidance to the Institute.

I suspect one of the first things the Council has to decide is what constitutes general policy guidance. I would suspect that in itself, a definition of "policy" is a "policy."

My personal view is that the major emphasis that the Council should have is on the priorities and directions and the major funding allocations of our budget activities, our program activities.

And we have, as we have been thinking through at least our proposals to the Council, very much integrated the activities of the Council into our budget planning exercises.

Mr. BRADEMAS. I notice that the statute itself says that "In order to carry out the policy * * * there is established the National Institute of Education * * * which shall consist of a National Council on Educational Research * * * and a Director of the Institute." And later, "The Council shall establish general policies for and review the conduct of the Institute."

You have just indicated in your own response to my question that the Council, in your view, should set priorities, directions and make judgments on major funding activities.

I also notice that the statute says that the Director of the Institute shall be appointed by the President and shall perform such duties and exercise such powers and authorities as the Council may prescribe.

Now, against the background of those statutory mandates—in view of what you have already said in your own understanding of the purpose of the Council—could you give us your judgment in a more concrete way of just what those requirements mean? What do those mandates mean with respect to your decisions to continue the voucher demonstration program, to undertake a field initiated research program, to drastically alter the method of fund laboratories?

Surely, you don't suggest that these are, to quote you elsewhere in your statement, simply representative of planning work. Are these not all policy decisions?

Dr. GLENNAN. First, no decision has been made with respect to continuation of vouchers. Vouchers is not a responsibility within the Institute as yet, and so I make that very clear.

Mr. BRADEMAS. Have you looked at the budget?

Dr. GLENNAN. Yes, but there has not been a decision made to continue vouchers.

Mr. BRADEMAS. That is not the way I read the budget, but go ahead.

Dr. GLENNAN. Well, I say to you here that the decision has not been made. It seems to me that is clearly a responsibility of the Council. That involves a very long-term commitment.

Mr. BRADEMAS. I want to come back to that, but go ahead.

Dr. GLENNAN. Sure. I guess that I would have to agree that all of the things you have mentioned are things that I would feel would fall with the gist of policy.

I don't think there is any question about that. We did and do read in the legislation a sense that there was an agreement that this first year of transition in which people would be getting things together.

Mr. BRADEMAS. Where did you read that?

Dr. GLENNAN. It says during the fiscal year 1973, the Council along with the Director will be developing policies and procedures for NIE.

Mr. BRADEMAS. The Council along with the director I think you just read.

Dr. GLENNAN. That is right, to insure continuity of the programs, we would expect the Director of NIE during fiscal year 1973 to be responsible to provide direction and leadership to these programs and projects. There is a sense that is this transition year there may be things done a little differently.

Mr. BRADEMAS. Let me make this observation, Dr. Glennan. I am a strong supporter of the National Institute and it seems to me that we have labored mightily in the subcommittee to give you bipartisan support.

I feel rather sensitive about that. That bill came out of this subcommittee unanimously. I think it was adopted without a dissenting vote in the Committee on Education and Labor of the House.

I have certainly personally tried to work as hard as I can to insure bipartisan support. But I suggest to you that you are in flagrant violation of the law.

The Institute was established last summer. The question of the provision of a National Council was not a whim of the members of this committee or of Congress.

It is a statutory mandatory requirement, and it seems to me that for decisions to be made that, as you just agreed, are directly within the framework of policy, without the establishment of this Council, puts you in direct violation of not only the intent of Congress, but of the explicit statutory language of the Education Amendments of 1973.

I am really quite distressed that you should be getting off on this foot, and I think that the administration has not been operating in good faith with those of us, of both parties, who tried to give you strong support.

I see no justification whatsoever for this very lengthy delay in establishing the Council. You are now subject, as I think a subsequent witness will suggest, to the possibility of an injunction that you are in violation of the law in spending these moneys.

Even absent the legal question, I have heard Secretary Marland tell me personally and publicly how committed he is to responding to the intent of Congress.

My mind goes back, as my colleagues here will recall, to the fact that in 1970, the President signed into law the Environmental Educational Act, a much more modest enterprise, which included a statutory mandate to establish a mere Advisory Council. It was not until a full year later, almost to the day, that the administration got around to obeying the law—and only under pressure from this subcommittee did it do so.

I then read you to say, as I look at your statement, that you can justify spending money without the establishment of a Council. You say on page 2:

> We have funded only the continuation of expiring grants and contracts for programs inherited from OE.
>
> In these cases we have concluded that the Government had a clear commitment that should be met or had incurred a substantial investment that would be lost if the funding were to lapse.

Now, that rather surprises me. Here is a case where you are going ahead to spend money, without obeying the statutory requirement to establish a Council to give policy directions on the spending of money, on the grounds that the Government had a clear commitment that should be met, or had incurred a substantial investment that would be lost, if funding were to lapse. On the other side of the coin, the executive branch of the Government is now impounding appropriated funds on the grounds that we in Congress are too uncivilized to make intelligent judgments.

So, it seems you are perfectly willing to spend money in violation of congressional intent if it suits you, just as the administration wants to impound appropriated funds where it suits them.

I find this logic rather difficult to reconcile.

Dr. GLENNAN. Well, it is very difficult to respond to you, sir. I have, I suspect every bit as much distress over the lack of a Council as you. I am in a position where I think I am given certain responsibilities and the arguments all just derive from the lack of Council.

Under the circumstances, and with the advice of counsel, it was our judgment that it was the most responsible act that I could take to make these awards. I would make it very clear that of the $103 million that have so far been appropriated to us, only about $18 million has been spent.

Mr. BRADEMAS. The amount of the money has nothing to do with the sin.

Dr. GLENNAN. Well, I suspect that is true.

Mr. BRADEMAS. That is not the point. You could spend a dollar and you would still be in violation of the intent of Congress. Don't you understand my point?

Dr. GLENNAN. I understand your logic, sir.

Mr. BRADEMAS. When are you going to appoint the Council?

Dr. GLENNAN. I don't appoint the Council.

Mr. BRADEMAS. When will the Council be appointed?

Dr. GLENNAN. My understanding is that the appointment is imminent, but I have been saying that for quite some time.

Mr. BRADEMAS. Yes, you have as a matter of fact. When do you think the statute was signed into law?

Dr. GLENNAN. The Institute came into being on the first of August.

Mr. BRADEMAS. This is February. As I told Mr. Marland in another context, the Members of the House only get elected for 2 years.

I think this situation is a cavalier display of contempt of Congress, disdain for both the Republicans and Democrats who worked hard on this legislation. It is a very good way to undermine the support that some of us, in good faith, have tried to generate for what we regard as a very important enterprise.

Let me ask you this question: What is the difference between the research being supported by the NIE and the older research effort at OE?

Dr. GLENNAN. Well, if I can restrict it first to the field-initiated studies program, the one part that I would support would be most nearly research, as opposed to development and experimentation. The difference, we hope, will be in the quality of the process we use to generate and to select the research to be done.

We have put a great deal of emphasis on trying to get the very best kinds of minds.

Mr. BRADEMAS. Let me refine my question. What is the difference in terms of program? Quality is a rather metaphysical concept which may be different in your mind than in the mind of somebody else.

You say you have only $18 million.

Dr. GLENNAN. I say $18 million has been spent.

Mr. BRADEMAS. How have you spent that in a different way? And how do you contemplate spending whatever money is remaining in

fiscal 1973 in a manner different from the way moneys have been expended under the National Center for Educational Research. Are you doing it differently from what was done at OE?

Dr. GLENNAN. What we have been trying to do is improve the quality of staff in the Institute, improve it over what existed in the Office of Education.

We have been seeking outside advice from the best people we could find to examine the things we inherited. We are in some instances considering cutbacks or reorientations.

We are clearly trying to reach a clear agreement in the labs and centers programs or in the Career Educational Models Developments, a very clear agreement with the contractors as to what their responsibilities are, what they should be delivering, and so forth.

In many cases, we find that definition has never existed. We have not known what it was that was being procured.

Mr. BRADEMAS. Let me put my question a third time. What programs are different that NIE is now supporting?

Dr. GLENNAN. We have not started new programs with the exception of the field-initiated studies program. There are no resources to start those new programs this year.

We have been trying to pull some sense of order into what we inherited, and we have a long way to go on doing that. New programs are some distance off in this Institute as far as things that have direction and a sense of purpose.

It takes time to plan those. And that has not been what we have been doing. That is one of the reasons I feel more comfortable with this very unfortunate situation with respect to the council; the real dimensions of the Institutes' effort are some distance away.

Mr. BRADEMAS. Dr. Glennan, I have many more questions, but I want to be sure my colleagues have a chance to put some to you. As you know, I must reiterate that I tried in good faith, as the chairman of this subcommittee and as sponsor of the bill in the House, to be as totally bipartisan as I could in supporting it and in supporting you. But I must confess that I am deeply distressed that the administration, which after all initiated this proposal, unlike a lot of other proposals, does not seem to be as supportive of its own proposal as some of us in Congress on both sides of the aisle, have tried to be.

I think that the administration, having failed to appoint this Council as statutorily mandated by the law, reflects a contempt for Congress that I think is most distressing.

I would hope that this gross deficiency can be very speedily remedied. Get that Council appointed, get them to business, start obeying the law. Then you will find us not being critical, for we want to be supportive.

I do not want to sit up here and throw darts at you.

Dr. GLENNAN. I agree with you, and I have that same hope. I would emphasize that from everything that I have been able to see, this is not a matter of disrespect or contempt of the Congress.

The problem occurred in the first place around election time, with the changing of the Secretaries at HEW. Of course, this does not mean that there should not have been a Council appointed last August.

But given where I came into this thing and what I have been able to

see, I believe that the administration has proceeded in as good faith as could be expected under the situation.

But, I share with you your concern, and I hope that I will be able to come before you or come see you very soon and indicate that we in fact have a Council.

Mr. BRADEMAS. As a great American once said, "We shall watch what you do and not what you say."

Dr. GLENNAN. I think that is exactly right.

Mr. BRADEMAS. Mr. Peyser?

Mr. PEYSER. I will yield to Mr. Landgrebe.

Mr. LANDGREBE. Doctor, this National Institute of Education is something new in America—the law was passed and we are just developing this Institute.

Dr. GLENNAN. That is right.

Mr. LANDGREBE. And we have hopes that this is going to make a great impact on the educational processes of the United States?

Dr. GLENNAN. That is correct.

Mr. LANDGREBE. From your statement, you feel that you have made some progress in our proceeding along some respectable lines, even without the Advisory Council having been named at this point.

Dr. GLENNAN. I think what the statement has intended to convey is that we are trying to get our house in order. We inherited a lot. We had a lot of programs started under a variety of different mandates.

We had some programs under a somewhat indifferent management, some under quite good management. What we have done so far is basically try to make sure that we understood what was being done and why it was being done and give some sense of direction to those things.

I think that the problem of setting up an Institute like this is a long-term problem. We have heard a lot of promises in the past about quick results from research, and I do not believe that much of research will show results like that.

Education research is a long process as it is in every other field. It should not be any different in education. So, I think because that is the case, it behooves us in this early period of the institute to enter into thoughtful planning activities, dialogs with many communities around the country, to try and set a base for a really significant, well-understood, well-directed effort.

That is what I hope we have been doing in the first few months. I have been in the job for about 3 months.

Mr. LANDGREBE. Also, just to pursue this situation with one more comment or question, really America is almost 200 years old, and to develop this new institute will require special skills and advisory board or people that you cannot go out and pick off of the streetcorners.

There must be some justification in addition to the turmoil, the political turmoil, that is constantly going on in our country. But to select the right board for this particular assignment seems like a rather momentous task.

Don't you think so?

Dr. GLENNAN. I think so. I have recently been spending some time on this and one of the things that has occurred is that the people we have talked to, good people, very good people, have all recognized that this is going to be a time-consuming affair, and since they are

good people, they have plently of other commitments. So one of the problems that has slowed the naming of the board is the fact that these people have to weigh whether this kind of activity was going to be of greater value to the country or to them than some other kind of activity.

We would guess that this board will have to meet between 12 and 20 working days a year. That is a very significant commitment of time on the part of very good people. The problems are somewhat akin to my going out to try to find people to be chief staff people in my office; it frequently takes 3 months, 6 months, 9 months to find people who are both good and can make and will make that kind of commitment.

Mr. LANDGREBE. I do not believe I have any more questions.

Mr. Chairman, thank you.

Mr. BRADEMAS. Mrs. Grasso?

Mrs. GRASSO. Doctor, you say it has been difficult for you to recruit people to serve on the Council. If this should continue indefinitely, what do you feel your function will be?

Dr. GLENNAN. I do not think it can continue indefinitely. I cannot continue. I think it is fair to say that I have stretched things as far as I am willing to stretch them.

I have told my staff that we will not approve things that have future year implication. So, I think we will have a Council and I am convinced we are going to have a Council.

Mrs. GRASSO. If ever this Council is appointed, how much leadtime do you think the members will need before they can make judgments that will be of value?

Dr. GLENNAN. I think that the first few months of this Council are going to be a hectic affairs. They will have as much leadtime as I had in recommending some of these decisions. There are simply questions that have to be decided and I think it is a manner of good management to figure out how to solve them with the kind of information you have in hand.

But, I think they are going to have to act very quickly. Given that they are in fact confirmed rapidly by the Senate, we would expect to meet very quickly with them to deal with two sets of issues.

The first issue which I mentioned to Congressman Brademas before, is, What do they consider to be policy? And how do they want to structure their involvement? What kind of support do they require from the institute?

The second, is to deal with the set of outstanding issues which would include recommendations with respect to career education, experimental schools, dissemination activities, and field initiated studies.

They will have to make those decisions, I am afraid, with less than the kind of information and kind of interaction with the public that we would hope to come to in the long term.

We will try to suggest to them that they make their decisions with minimum long-term commitments so there is a possibility for them to make policy revisions in the future.

I guess that is probably the best answer I can give you.

Mrs. GRASSO. I find it very difficult to understand the problems that you have in recruiting when this was a program that was embraced with such enthusiasm by all of the people in the Congress, and by people in the whole area of education.

How far along are you in filling these slots on the Council?

Dr. GLENNAN. The White House has that responsibility, and I cannot speak for them. But, I would reiterate the fact that the difficulty of recruiting in this position is that you are trying to find people who will spend 12 to 20 working days a year on this.

That is a difficult thing to ask of an individual, it seems to me, and he has to feel very strongly about it and the best kind of people are already committed to plenty of other things.

Mr. BRADEMAS. Will the gentlelady yield?

Mrs. GRASSO. Yes.

Mr. BRADEMAS. We will come up with some first-class names for you if you are having trouble. I have been overwhelmed, as one identified with the Institute, with requests for consideration on the part of people whose politics I do not even know—but I do know they are able people. I might just observe one other thing if the gentlelady will yield for a further observation.

You must understand that we are talking to you within the context of very depressing experiences. I have in front of me two letters to Mr. Weinberger of resignation from the National Advisory Council for Environmental Education mandated by the Environmental Education Act.

These are two of the ablest people on that Advisory Council. One of them who is the executive director of the Minnesota Environmental Sciences Foundation says, and I quote his letter of January 31:

> Thirteen months after the Act was passed and signed into law, the Advisory Council called for therein, met for the first time.
>
> Its membership was poorly chosen, greatly lacking in environmental education expertise, and to this date, its fully authorized complement of 21 has never been achieved.

The other letter is from Chancellor Edward Weidner of the University of Wisconsin, Green Bay, recognized all over this country as one of the leading environmental educators. He too, for similar reasons, found it necessary to resign, and in his letter dated January 30, 1973, writes:

> The Advisory Council was constituted in such a way as to hinder its effectiveness. No remedial action was taken when its ineffectiveness was apparent to all.

Anybody that knows anything about the way these programs have been operating knows that the HEW has made a shambles of some of these advisory councils.

So, we are not talking against the background of inexperience. The law was violated then. People of no great competence were assigned to this Environmental Education Council. And then, the administration fired the Director of Environmental Education, and told us, "Well, he just was not competent." Before they appointed him they had justified the great delay by saying, "We wanted to get a first-class person."

They were trying to have it both ways.

Dr. GLENNAN. I think we safely prevented this from becoming just another advisory council by the law you have written, and I do not intend to treat it that way.

Mrs. GRASSO. I have no further questions.

Mr. BRADEMAS. Mr. Peyser, of New York.

Mr. PEYSER. Doctor, we are glad to have you with us this morning. I have a number of questions of concern here. One of them was touched on by the chairman, and I would like to explore it a little further. This deals with your answer to his question on vouchers.

I am reading here from the memorandum from William Filter, from OEO, on this question where it states here:

> The National Institute of Education includes $23.9 million to continue educational voucher demonstration programs.

Now, the basic question: Is that correct or isn't it?

Dr. GLENNAN. I think that the OMB took funds associated with the voucher project and transferred them to the NIE. They transferred them; that is, they put that into NIE appropriation request for 1974.

My assumption is that any work on vouchers and any money spent by the Institute and any intention to continue that program with moneys appropriated to the Institute will be subject to review of that Council.

Mr. PEYSER. Do you have any ongoing programs right now with vouchers utilizing the funds?

Dr. GLENNAN. Not in the Institute, no.

Mr. PEYSER. I mean, if the program has been transferred.

Dr. GLENNAN. It has not been transferred as yet.

Mr. PEYSER. But it is going to be transferred?

Dr. GLENNAN. It is proposed to be transferred.

Mr. PEYSER. It is proposed to be transferred because there won't be any other place to run the program, so it will be part of NIE, there is no question of that?

Dr. GLENNAN. That is right.

Mr. PEYSER. My question is: Are you at this point aware of those programs—and I am sure you are—and what is their future? In other words, are those programs on a continuing basis right now?

Dr. GLENNAN. My understanding from the conversations, just checking back to see what happened since I left OEO, is one in-school limited voucher demonstration in Alum Rock, Calif., involving six schools; they are proposing this year, I believe, to go to 12 to 18 schools.

There are planning grants with New Rochelle, as I understand it; Rochester has had one, I believe, and decided not to go forward. There were discussions with Dayton and Milwaukee. I am not sure any grants exist with them. Those are proceeding with consideration. But I again would say that I do think that the Institute, the Council will have to make judgments before those can be continued.

Mr. PEYSER. I would like to put in a special plug on this question at this point, that obviously, based on what you are saying, there are now new voucher plans going into being until the council itself would be appointed. Is it correct to say that there will be no activity on your authority at this time to put into being any new voucher plans until the council is actually appointed?

Dr. GLENNAN. This is correct.

Mr. PEYSER. So there will be, I gather from what you are saying, a continuation of existing plans.

Dr. GLENNAN. The Alum Rock program is forward-funded. They have funds to go through the next school year at the current level under any circumstances.

If those responsibilities are delegated to me under the authority of the Economic Opportunity Act, I have asked for a ruling from our general counsel as to what the responsibilities of the National Council of Education on Research ought to be for delegated programs.

I don't know what the answer is to that, frankly, but I do think—and let me make this point—to the extent that actions taken under that delegated authority imply outyear commitments on the part of the Institute, it seems to me they ought to be reviewed by the Council.

Mr. PEYSER. The New Rochelle one, which is in planning, would obviously go no further until such time as the Council was appointed?

Dr. GLENNAN. I think that is right.

Mr. PEYSER. Do you feel sure that is correct: New Rochelle would not suddenly be in a voucher plan starting next September if there were no further discussions?

Dr. GLENNAN. Well, they are not in a voucher plan with any commitment or even policy judgment that there is long-term support from the Institute.

Mr. PEYSER. They won't be in it unless the Institute gives them the money?

Dr. GLENNAN. Right now those programs are being run by the Office of Economic Opportunity. If they were to make that grant now, I think they could do that. That is within their authority.

What I am saying is: If the Institute would make no commitment to continue that grant—that is, to add money out-year without Council approval——

Mr. PEYSER. They would have to be funded for 1974?

Dr. GLENNAN. But they would use 1973 moneys which are appropriated to Office of Economic Opportunity.

Mr. PEYSER. At that time, if we want to know more about voucher plans, we are still dealing with OEO?

Dr. GLENNAN. Yes.

Mr. PEYSER. And so OEO technically could fund a New Rochelle plan if they wanted to?

Dr. GLENNAN. That is correct.

Mr. PEYSER. Even though the indication from OEO's statement itself is that they are not doing anything with it, that the whole thing is being transferred to NIE?

Dr. GLENNAN. It will be transferred to NIE but, before that, obviously——

Mr. PEYSER. I don't want to launch into any whole new program. I won't go through that.

Mr. BRADEMAS. Will the gentleman yield on that point?

Mr. PEYSER. Yes.

Mr. BRADEMAS. I think the questions Mr. Peyser has put are very perceptive. I am still not clear on the relationship between those OEO moneys, and the NIE planning process, and your own budgetary process. Because if those moneys are going to be brought over and administered by you, whether the Council has anything to say about it or not,

it seems somebody has made a decision with respect to $23.9 million, some 15 percent of your proposed NIE program budget of $150 million for fiscal 1974. That is a pretty important policy decision.

Dr. GLENNAN. This point I have tried to make, and I will make it again. How that money is spent is a policy decision to be decided upon by the Council. What I would say to New Rochelle, if they get a grant from Office of Economic Opportunity is that they ought to be darn sure that they think this council will make a judgment that it will be continued when it gets over to the NIE.

There is a separate authority at this point in time, and that authority will be separate until the 30th of June. On the 1st of July, if there is an appropriation, moneys will have been appropriated to the Institute. And how those moneys are spent in 1974 appropriations seems to me to be subject to the Council's——

Mr. BRADEMAS. I hope you don't get into a conflict with OMB on how some of the moneys are spent, even as we in Congress do.

Dr. GLENNAN. We have a wonderful time with the various kinds of conflicts that are potentially there. What the Council says and what Congress says and what I say—that is the policymaking process.

Mr. PEYSER. In your field initiated studies, specifically where it says researchers have been asked to submit proposals on virtually any topic promising to extend knowledge about American education, colleges, universities, and so forth, specifically what are we talking about there?

In other words, if I were a university today, what type of application for grants would I be making? And I take it these are programs that you are going forward with now, because you are asking for application grants.

Dr. GLENNAN. These are supposed to be that small part of the Institute's total activities which are devoted to quite fundamental research; and, in talking with researchers around the country, we are very clearly given to believe that one of the problems in the past with the Office of Education is that there is a perception that there is a hidden agenda in this research program. We have been doing our best to remove that perception.

We aren't after curricular development or after environmental education per se. We are seeking the best ideas from the field. We do provide them with guidance in the following way:

We have established a set of panels, and those panels give sense of the interest of the research. There is a panel on governance and school organization, on the development of the human being; on learning and instruction. There is a panel on evaluation, measurement, and goals.

The researcher can try to read between the lines of how we structured those panels to get some notion of what we are looking for. We tried to construct them so they covered everything, but they do give some sense of major emphasis.

Mr. PEYSER. Are you getting applications in now?

Dr. GLENNAN. We have not received any applications to speak of, but we have received an enormous number of inquiries. The announcement was made on the 15th of January, and we have given them about 6 weeks to prepare a proposal. So we expect them in by the 1st of March.

Mr. PEYSER. And then these will be funded and acted upon, is that correct?

Dr. GLENNAN. As they come in, there will be a peer review system. They will pass on the technical and educational merits of the proposals and recommend to the Institute those which should be funded, and the funding will actually occur sometime around the middle of June—between the 1st and 15th of June.

Mr. PEYSER. Thank you, Mr. Chairman.

Mr. BRADEMAS. Mr. Sarasin.

Mr. SARASIN. I have no questions. Thank you, Mr. Chairman.

Mr. BRADEMAS. Mr. Glennan, let me ask you a question that derives from your colloquy with Mr. Peyser. We were talking about the question of the voucher programs coming over from OEO. You are going to be having programs transferred from OEO apparently as well as from the Office of Education.

How much free money, how much new money, are you going to have to work with, given what appears to be the continuation of certain existing programs from those two agencies?

Dr. GLENNAN. Well, again the Council can make judgments about those continuations. If we assume that we will continue to support what is transferred. It is our best guess that somewhere around $50 to $60 million of that $162 million is available for allocation to programs that would be subject to the choice of the Institute.

Mr. BRADEMAS. You can't really have it both ways by saying you can't give us an answer because the Council isn't there but, on the other hand, decisions are obviously——

Dr. GLENNAN. We will try to give you an answer on where there are continuations and where we felt there were essentially ongoing activities that we had on the basis of past government commitments we have some obligation too.

Mr. BRADEMAS. I think that would be helpful. And, beyond that, you must have some idea how you are going to spend the extra $50 or $60 million if the Council does not get here for a while.

Dr. GLENNAN. That is in 1974.

Mr. BRADEMAS. I understand, but I have learned to be pessimistic about all of you.

Dr. GLENNAN. We will, I suspect, provide to you fairly soon a justification document for the appropriations. I am not sure when that is due to be submitted. About the third week in February, I believe. And that will have, against very broad kinds of headings, a set of allocations.

We have been trying to be somewhat consistent with the categories of interest that the Congress had in charging us. We talked about a set of basic studies of research and development and marketing systems and some allocations there. But really we have a long planning process to go forward with before we would recommend to the Council how that money ought to be spent. We are a little behind the power curtain at this point.

Mr. BRADEMAS. What is the purpose of the National Institute of Education as you understand it?

Dr. GLENNAN. I certainly think that, and as I have been saying rather continually in my speeches, the purposes seem to be very clearly set out in the preamble or the purposes of this act, and they seem to be

very good purposes. The categories deal with solving major educational problems as perceived by the public. And, second, a mode which is the creation of a strong R and D system, a vital system and to develop a knowledge base that will permit future innovation and reform in education.

Mr. BRADEMAS. I am not trying to trap you, but I note that in section 405 of the statute, the first sentence of which is "Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality" et cetera. Now, I say that because I notice that in the guidelines that you have sent out, unilaterally, without the Council, both in connection with your small grant program and in connection with your field-initiated research, there is no mention of the specific purpose which Congress enunciated in the first sentence of the authorizing provision. Is there some reason that you have ignored that?

Dr. GLENNAN. Probably because we jumped to the purposes, the means by which you intended to achieve those purposes. I think the Congress intended to achieve those purposes.

Mr. BRADEMAS. I would be more comfortable—and again you will see why I want to see that Council established—I would be more comfortable if there were some passing nod at the clearly articulated fundamental purpose of the Institute.

Let me turn to another question. What is the relationship between NIE programming and the new fund for the improvement of postsecondary education?

Dr. GLENNAN. At present, there is no specific relationship, but we have had discussions with staff members of the fund.

Let me tell you my understanding of what the fund is intended to do, both by the Congress and by the administration. I see it as a seed money activity, as providing kinds of opportunities to innovate, to try new things, to create new programs within the postsecondary area. Clearly the Institute has a strong interest in postsecondary activities, and what we would hope to do is to work with the fund to use those experiences to learn.

The fund will attempt to evaluate what is going on, but I think we might enhance the resources used for evaluation of research on those kinds of experiments.

Mr. BRADEMAS. You are, of course, also authorized to undertake the support of experiments?

Dr. GLENNAN. Quite right.

Mr. BRADEMAS. I am trying to understand what kind of delineation of responsibilities you have in mind, and what you just said indicates you put the cart before the horse.

Dr. GLENNAN. Maybe I don't understand what you mean by that.

Mr. BRADEMAS. If you are going to be evaluating NIE experiments undertaken by the fund for improvement of postsecondary education, what do you contemplate is the first principle governing NIE's relationship to postsecondary research?

Dr. GLENNAN. I think what we would try to do is: As we look at what we want to do in postsecondary education or higher education, we try to make some judgments about what the crucial issues are that the Institute should be examining. For example, the kind of things which continually come up in our planning activities is the problem of access,

the problem of trying to get higher education or postsecondary education services to a wide range of audiences.

If, in fact, that were to be a priority concern within the Institute in postsecondary education, I think we ought to look at the fund and understand whether the things they are carrying out provide the kind of experiences that we could look at to learn something about that set of problems. If their priorities happen to be moving in different directions, then I think it is quite within the authority of the Institute to propose carrying out specific experiments dealing with that set of issues. I think we should not be trying to do the same things as the fund.

Mr. BRADEMAS. That makes sense to me except that I suggest for your consideration that when you read back your response to my question, the same response could have been given by whoever the new director of the fund for the improvement of postsecondary education is going to be. Do you see my problem?

Dr. GLENNAN. No; I think that the fund, at least as I understand it—and I am not a devotee of that law—is clearly to support operations. It is clearly to support programs. It was not clearly intended to be a universal learning experience, a knowledge-creation thing. It is supposed to do things in one place.

It would seem to me that the real difference between the fund and ourselves is that we are looking for findings. We are looking for things that are useful elsewhere. And to the extent that those experiences at that one place can help us toward those generalizations, then we ought to be concerned with them.

Mr. BRADEMAS. Surely you are not suggesting that the fund is not going to be a source of concepts and experiences that can be generalizable?

Dr. GLENNAN. That is exactly what I am suggesting. Our job is to try to understand to what extent they are generalizable and to what extent they are peculiar to the site. That could be our job, I should say.

Mr. BRADEMAS. Well, I suggest, at least for your consideration, that a much more sophisticated analysis needs to be made in respect to the relationship between whatever the NIE proposes to support in the post secondary field and whatever is proposed to be supported under the fund. Because I can see a great deal of possibility of unwarranted duplication and overlap there.

Dr. GLENNAN. Yes, surely. And I can assure you that so far there has been a cordial and interactive kind of activity.

Mr. BRADEMAS. As Mr. Marland has just arrived, let me put one question to you while he is here so I am not putting this question to you in his absence. How do you see the relationship between your own role and the Office of the Assistant Secretary? Are you getting along all right with each other?

Dr. GLENNAN. I think so. We have, as we agreed before we started this whole thing—had a number of disagreements and felt that was helpful.

I take a major role of the Assistant Secretary to be the coordination of the development of policy and programs in the two separate parts of the division, not the making of that policy per se but to make sure that somehow things fit together, and I think that role is evolving and evolving in a useful way that provides a hope that what we do will

be useful to the Office of Education and that the Office of Education can give us some sense of issues that they feel are crucial to understanding and so forth. It is a mechanism for coordinating the planning efforts.

Obviously there are many other things the Assistant Secretary does but, in terms of my relationship with them, that is the major one. And it has been a comfortable relationship so far and I think not unduly confining relationship so far. He has been very good in allowing me to jump on him.

Mr. BRADEMAS. Thank you very much, Dr. Glennan. This has been most helpful to members of the subcommittee, I am sure. And I want you to know that I hope you will remain with us while Secretary Marland shares his views with us.

I want to assure you of what I said at the outset: this subcommittee wants to help you do the most effective job possible. But I have already given you some of my concerns that I think stand in the way of our working carefully and effectively with you.

We are very pleased to have with us this morning the distinguished Assistant Secretary for Education, Dr. Marland.

Dr. Marland, we are happy to have you with us again and look forward to hearing from you.

STATEMENT OF DR. SIDNEY P. MARLAND, JR., ASSISTANT SECRETARY FOR EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Dr. MARLAND. Thank you, Mr. Chairman. I have prepared a brief statement that I would like to present to the committee, if you will, and then continue with interrogation at your pleasure.

Mr. Chairman and members of the committee, I appreciate this opportunity to discuss with you our progress on organizing the Office of the Assistant Secretary for Education. This office was created by the Education Amendments of 1972 which established an Education Division in the Department of Health, Education and Welfare.

The law provides that the Division be composed of the Office of Education and the National Institute of Education, and be headed by an Assistant Secretary for Education.

President Nixon sent my nomination for this new post to the Senate on August 3, the appointment was confirmed on October 14, and I was officially sworn in on November 1.

On January 2, then-Secretary Richardson signed a delegation of authority establishing the Office of the Assistant Secretary. That delegation was published January 9 in a Federal Register notice describing the principal functions and offices of the unit. With your permission, I would like to insert a copy of this document at this point in the record.

The chairman will recall I assured him after Secretary Richardson approved this in the office, he would receive copies of that, and that was done. And I think that would be appropriate for the record.

Mr. BRADEMAS. Without objection that will be inserted.

(The document referred to follows:)

[From the Federal Register, Jan. 9, 1973, Washington, D.C., vol. 38, No. 5]

OFFICE OF THE SECRETARY

ASSISTANT SECRETARY FOR EDUCATION

Delegation of Authority

The Assistant Secretary for Education serves as head of the Education Division which consists of the Office of the Assistant Secretary for Education, the Office of Education, and the National Institute of Education. Parts 2 and 7 of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare will continue to be used for the Office of Education and the National Institute of Education respectively. Part I is hereby amended by addition of a new Chapter 1K, as follows:

SECTION 1K.00 *Mission.* The Assistant Secretary for Education is responsible for the general direction and supervision of the Education Division, provides leadership for the education activities of the Department, and serves as the key spokesman and advocate for assuring that the Department provides professional and financial assistance to strengthen education in accordance with Federal laws and regulations. In addition, serves as the principal advisor to the Secretary on education affairs.

SEC. 1K.10 *Organization.* A. The Office of the Assistant Secretary for Education is under the supervision of the Assistant Secretary for Education who heads the Education Division and reports directly to the Secretary.

B. The Office of the Assistant Secretary for Education includes:

Assistant Secretary for Education.
Deputy Assistant Secretary for Education.
Deputy Assistant Secretary (Policy Development).
Deputy Assistant Secretary (Policy Communication).
Director, Fund for the Improvement of Post-Secondary Education.

SEC. 1K.20 *Functions.* 1. "Assistant Secretary for Education" is the principal officer in the Department responsible to the Secretary for the direction and supervision of the Education Division; and for the coordination and general supervision of education activities wherever they are performed by the Department. Provides direct leadership for the administration of the Emergency School Aid Act.

2. "Deputy Assistant Secretary for Education" serves as the principal assistant to the Assistant Secretary for Education and acts for him during his absence or inability to act, or if a vacancy occurs in the position of Assistant Secretary for Education. In addition, provides executive secretariat services for the Education Division.

3. "Deputy Assistant Secretary (Policy Development)" coordinates the development of general policies in the Education Division including the formulation of program and legislative initiatives. Provides guidance in the determination of priorities, objectives, and goals fo reducation including the formulation of recommendations to the Assistant Secretary. Provides articulation among components of the Divisicn to insure effective implementation of short- and long-term policy decisions.

Coordinates 5-year plans, program evaluation, budget submissions, and operating plans for the Assistant Secretary for Education. Monitors research and statistical activities in the agencies comprising the Education Division, as they relate to policy development. Coordinates budget construction within components of the Division. Advises the Assistant Secretary for Education on key implementation issues. Develops budget positions and testimony for the ASE for presentation before OMB, Congress, and the public.

Recommends program and policy issues for analysis, coordinates the necessary studies, and actions to be undertaken within the Education Division, giving particular attention to articulating with Na'ional Council on Educational Research.

Coordinates program information systems used at the Assistant Secretary for Education level and within the agencies comprising the Education Division. Develops other major administrative proposals requested by the Assistant Secretary for Education with particular attention to Administrative initiatives.

4. "Deputy Assistant Secretary (Policy Communication)" represents the Assistant Secretary and interprets Federal education policies to the education

community and the general public. Maintains a capability for monitoring the activities of the education community to provide timely accurate intelligence on their program and legislative objectives, and to assure that their views are reflected in the policymaking process of the Division.

Is responsible for the development and implementation of information strategies to assure that the programs and policies of the Education Division are effectively communicated to the education community and the general public. Supervises all activities of the Division affecting relationships with the education community including appropriate State agencies.

Provides the principal support and guidance to the Federal Interagency Committee on Education. Participates in shaping the input into policy development and implementing process as it pertains to the development of legislation. Advises and consults with the Assistant Secretary for Education and the public information offices of the agencies comprising the Education Division on new policy initiatives, the setting of priorities and the provision of policy guidance to Education Division agencies' public information offices. Directs Federal Interagency Committee on Education, consistent with Executive Order No. 11185.

5. "Director, Fund for the Improvement of Post-Secondary Education" is responsible for the planning and administration of the Fund including the preparation of program and budgetary plans and supervision of staff necessary to implement those plans.

Dated: January 2, 1972.

ELLIOT L. RICHARDSON,
Secretary.

Dr. MARLAND. In all of our actions regarding the establishment of this office, we have been mindful of several concerns expressed by the Senate Committee on Labor and Public Welfare at the time of my confirmation hearings.

We also gave careful consideration to your views, Mr. Chairman, as expressed before that committee. The subsequent committee report on the nomination has been carefully considered and has provided guidance in the establishment of the office.

The committee advised a limitation on the number of positions "necessary to provide general guidance for the policymaking and implementation activities carried out in the Office of Education and the National Institute of Education." We have followed this guidance by developing a staffing plan for 55 persons which provides the capability for this general direction.

In preparing this staffing plan, we have sought to avoid duplication of function in the structure of the Education Division. Rather, we have attempted, I think successfully, to design staff offices in the Office of the Assistant Secretary which will increase communications both within the Education Division and with the public at large.

These staff offices are further intended to provide an opportunity for planning and analysis activities free from the day-to-day problems of program administration.

Finally, we are organizing a unit to provide the necessary coordination for those activities which are being pursued by both component agencies of the Education Division, thus enhancing articulation among these activities, as Dr. Glennan's testimony implied.

To implement these functional goals the Secretary has approved an organizational plan calling for two deputies in addition to a principal deputy in my immediate office. These two deputies, one for policy development, the other for policy communication, together with the two agency heads, the Director of the Fund for Improvement of Post-Secondary Education, and my principal deputy, will constitute my advisers for determining general directions and policies for the Education Division.

The Senate committee also advised the Assistant Secretary to "take greater responsibility for the administration of the Emergency School Aid Act." This is a major program involving several hundred people, and because of the other duties assigned to the Assistant Secretary and the staff limitations imposed, I have delegated this administrative responsibility to the Commissioner of Education.

However, because of the special responsibility highlighted by the Senate committee and my own personal interest in the success of the emergency school assistance program, I intend to designate a senior member of my staff to keep me advised regarding activities of this most important new program.

It is my intention and my desire to conduct the Office of the Assistant Secretary in such a way as to respect fully the statutory requirements of the Office of Education, the National Institute of Education and the Fund for Improvement of Post-Secondary Education and to protect their autonomy as separate agencies within the Education Division established by the Education Amendments of 1972.

In the long run, the creation of the Education Division will strengthen the house of education within the Federal Government and provide the mechanism for leadership and support for the improvement of education throughout the Nation.

To help realize this potential, I view the Office of Assistant Secretary for Education as a promising instrument for formulating Federal education policy and relating effectively with Congress and the administration in pursuing a more comprehensive response to the problems of American education.

That concludes my prepared statement, Mr. Chai man. I would be glad to entertain questions.

Mr. BRADEMAS. Thank you very much, Mr. Secretary.

Mr. Secretary, I wonder if you could outline the breakdown of positions on your staff with respect to your responsibility, under the statute, to operate the Emergency School Aid Act, as well as what is apparently to be your responsibility to administer the fund for the improvement of postsecondary education.

Dr. MARLAND. Yes, those figures are still loose, Mr. Chairman, because we have not finalized a strict organization chart.

It will depend somewhat on the individuals we are able to attract to that office. But broadly speaking of the 55 personnel authorized, approximately 30 will be professional people and the other will be backup people.

Of those 30 there would be roughly the following deployment. The immediate office of the Assistant Secretary would include physical management, which would include what we call the executive secretariat our bureaucratic way of keeping papers shuffled in an orderly way throughout the Division, including correspondence with Congress—and the internal administration of the Division. It would be about seven professional people in the immediate office.

Our largest program in terms of numbers would be what we call Office of Policy Development. That would be headed by a Deputy. That would have about 20 or 21 total people, about 12 or 15 of whom would be professional people.

They would be scholars of various fields, particularly people skilled in policy and planning techniques influencing the full Division.

Finally, a third component which we would call the Office of the Deputy for Policy Communication Office. His job would be to relate to the total universe of education, the professional organizations, media, Congress, and so on. He would have approximately four professional people.

Another five people in the organization called FICE come under the Deputy for Policy Communication consistent with the FICE charter spelled out by Executive order. FICE means, Federal Interagency Committee on Education. And they reach across all Government. Some 26 Federal departments and agencies are embraced by FICE.

That, I believe, accounts for about 30 individuals of the professional level. They would have corresponding secretarial and similar backup people.

Mr. BRADEMAS. I would be grateful if you could make available, Mr. Secretary, to the subcommittee as soon as you can, this breakdown of staffing. One reads that you are after 99 positions—and I am aware that you responded that you are speaking of a couple of other responsibilities—but this situation and the size of this office quite clearly was not contemplated by the Senate Labor and Public Welfare Committee reporting on your confirmation.

Dr. MARLAND. Let me perhaps clarify that. Ninety-nine is a figure that we set aside months ago, the original recommended figure from the management group in the Office of the Secretary. That was corrected to be 55. The figure you may be referring to would be the additional present now under the authority for the Fund for the Improvement of Post-Secondary Education which has been placed in this office.

At the present level, the fund has 15 positions which would add to the 55 and make that 70. We see the fund's staff growing over the next several years in response to increased support—hopefully to roughly 20 or 25 people. That would be the projected number above 55.

They would not be within the Office of the Assistant Secretary. They would be a group operating as part of the Division of Education.

Mr. BRADEMAS. I suggest to you there is some sensitivity on this matter as I am sure you are aware. What is the grade level of your deputy?

Dr. MARLAND. It is recommended as an executive level V. The other two levels are recommended as GS–18.

Mr. BRADEMAS. The reason I ask that is that I am aware of your privately stated concern to comply with the intent of Congress.

As you know, I have been very critical of you on grounds that you on a number of occasions have not complied with the intent of Congress. I notice in this connection, unless I am mistaken—and I am sure if I am you will straighten me out—that grade V is the same as Dr. Glennan's grade. You know that that takes on a certain significance in the minds of legislators who worked on this legislation.

I am somewhat astonished that you would move ahead to establish, or to call for the establishment of, a Deputy Commissioner at level V, when the Conference Report on the Education Amendments of 1972, reads, with respect to the management of the Office of Education:

> The Senate Amendment established the position of Deputy Commissioner of Education to be appointed by the President with the advice and consent of the Senate.

The House Amendment had no similar provision. The Senate recedes.

(b) The Senate Amendment provided that the Commissioner of Education was to be compensated at the rate of a Level IV in the Executive Schedule and that the Deputy Commissioner was to be compensated at the rate of a Level V in the Executive Schedule. The House amendment had no similar provision. The Senate recedes. The conference agreement described in "Education Division" above describes the details of the conference action.

Now, it would seem to me that a fairminded reading of that language would suggest that you are doing something you are not supposed to be doing.

Dr. MARLAND. Let me try to respond as thoughtfully as I can. I am mindful of the language, Mr. Chairman. The language was speaking of a totally different set of circumstances as it describes the Commissioner of Education having a Deputy Commissioner of Education and a wholly different structural format from that which we are describ-

ference committees and did not miss a single session for 11 weeks, you ing today.

Mr. BRADEMAS. Not true. I say as one who sat in those conferences and did not miss a single session for 11 weeks, you are not accurate.

As you know, the final resolution of the concern about the Division of Education headed by a Commissioner originally proposed in the Senate bill, was, in effect, to change the name of that upgraded Commissioner of Education as proposed by the Senate to read "Assistant Secretary."

So I do not think you can accurately say that there is a significantly changed set of circumstances. The reason I mention this is that we hope there will not be what apparently is a continuing effort, and I speak for myself here, to go around the intent of Congress. You will recall that a continuing theme on the part of Senator Dominick of Colorado, who was a key Senator on this matter, and those of us on the House side of both parties, was that we did not want to build up further levels of bureaucracy.

I beseech you therefore, Mr. Secretary, to get your lawyers to go back and take a look at the conference report and at the history of the conference so that you are not getting yourself once more into what I respectfully suggest is another head-on collision with the expressed intent of Congress.

I take you in good faith, Mr. Secretary, when you say that you want to strive ot comply with the intent of Congress. So I offer that as an admonition.

Dr. MARLAND. Let me be sure that I am reading you specifically.

Mr. BRADEMAS. I do not think you have statutory authority to appoint a deputy to yourself at grade level V. That is what I am trying to say in plain English. That is illegal under the intent of Congress and it clearly is not in keeping with the intent of the Republican and Democratic champions of the Education Amendments of 1972, who intended that the Director of NIE be on par with the Commissioner of Education.

So, if you really want, in good faith, to try to conform with the intent of the members of the authorizing committee, you do not want to put us in the position of chasing over to the Appropriations Committee all the time because we find you running around the back door to try

to do what you are not supposed to be doing. We will do it if we have to.

In your own interest I am trying to be helpful to you to save you continuing conflicts before this committee.

Dr. MARLAND. Just so the record may show, Mr. Chairman, I deplore any implications that we have run around this committee or under the table or over the table to other committees to subvert the sober work of this committee including the labors which brought forth these amendments.

I assure the Chairman we believe very firmly in admonitions concerned with keeping this a nonbureaucratic structure. It does require powerful talent of a limited number of very able people to do the work that Congress has laid out for us to do. Namely, to lead education in the United States and be the principal officer of a vast responsibility.

I will struggle against anything that leads us to a bureaucratic structure.

Mr. BRADEMAS. I am reassured to hear that. Mr. Secretary, let me turn to the second issue in this respect. I believe, in fact I assert, that you are ignoring the clear intent of the Congress in having failed months after the establishment by law of the National Institute of Education to appoint a National Council on Educational Research, which is mandated by the statute.

It isn't a matter of whether you want to do it or whether you would like to do it. You have got to do it if you want to keep the law.

You and I had this same colloquy in October, 1971. I told you then you were breaking the law when you failed to follow the statutory mandate of Congress to appoint an Advisory Council on Environmental Education.

Before you came in, I read from letters to Secretary Designate Weinberger, from Richard Myshack of Minnesota and Edward Weidner of Wisconsin, both very able men, resigning from the Advisory Council on Environmental Education. They complained that it had taken 13 months before the Council was able to meet after the law had been signed. So here we are back at the same old stand again.

The statute creating the Institute I think was signed into law in June of last year. You know, Mr. Secretary, as I said to Dr. Glennan and I must repeat it here, you had solid bipartisan support for President Nixon's National Institute of Education.

Nobody can claim this has not been the case. Why do you want to undermine all of the hard work that has gone into getting this enterprise off the ground by not obeying the law? And Dr. Glennan has been put in a very embarrassing posture of having to go ahead and make what even he this morning has agreed are policy decisions, substantive policy decisions, which he is not supposed to be doing.

The next witness to appear before this committee will even talk to us about the possibility of injunction against the director for breaking the law.

Why do you want to put yourself in that posture? This was not necessary. We certainly have not been firing at you. All we have done is to try to say what a fine thing the NIE is and how we want to help you make it go.

Once again, Dr. Marland, you are in a position of standing in violation of the clear statutory mandate of the law. Even putting that to

one side for a moment, I should have thought after all of the troubles you have had up here, you would want to try to obey the law just to get along with this committtee. We would not have to bring you in here and harpoon you all of the time for flagrant contempt of Congress if you would only obey the law.

I don't understand it. Am I being unreasonable in that assertion? This is February. The law was signed last June. Where is the Council?

Dr. MARLAND. Mr. Chairman, I assure you I don't enjoy coming in here and being harpooned regularly.

Mr. BRADEMAS. I would rather come in and have you say what a great job you are doing and congratulate you on doing the job.

This is supposed to be a law and order administration.

Dr. MARLAND. I am sure if Dr. Glennan has explained the view of his circumstances, he has explained the extreme duress under which he and I have labored the past several months.

I am sure that the chairman knows when he speaks of me personally as appearing to be blocking the naming of a committee, he realizes this is not in my jurisdiction.

I think that it would be fruitless to cite the numbers of measures we have taken to expedite the naming of this committee. I expect that the committee will be named, as perhaps Dr. Glennan has told you, almost immediately.

We have been expecting that the committee would be named for some weeks now. There have been a number of happenings that have caused delays, apparently. This is not a committee named by the Assistant Secretary or the Secretary. As for accepting its presence, let me assure you that my testimony a year ago urging the existence of such a committee stands just as strongly as it did then, that this should be a powerful committee and it must be made up of distinguished Americans. I look forward eagerly to working with them and so does Dr. Glennan.

The fact that we do not have a committee is regrettable. On the other hand, NIE is charged by Congress with performing certain functions right now. NIE has been designated as the recipient of a number of on-going programs designated by Congress to be administered by NIE.

The Director of NIE finds himself between the rock and hard place when Congress says, "Put these programs into place—programs such as experimental schools, the labs and centers program, and dissemination activities.

These things had to be done. People were in the field performing work for the U.S. Government, and the integrity of the National Institute was at stake.

The authority as viewed by our attorneys permitted Dr. Glennan to make tentative provisional regulations and to alert the community of scholars that we were about to introduce regulations and offer grants in the anticipation of the very early naming of the NIE council.

The programs that have been sustained and on-going included no new starts. They are merely continuation of programs which by law he inherited and had to be sustained. The funds for the NIE and general authorizations of appropriations require this year that they be expended during fiscal year 1973, and therefore, they cannot be dallied with. We cannot invite the crunch of having those programs ad-

ministered loosely and irresponsibly in the last few days before the close of the fiscal year.

I believe Dr. Glennan acted responsibly in proceeding with the tentative preliminary issuance of publications and regulations subject to the confirmation and approval of his policy board just as soon as it is in place. As far as I can see no money for new starts will be expended until that policy board is in place.

Mr. BRADEMAS. Well, Dr. Marland, that is a marvelous statement and wonderful exercise in logic. Don't try to blame Congress for putting Dr. Glennan between a rock and a hard place.

Dr. MARLAND. I am not blaming Congress, Mr. Chairman. I am saying he has been placed there.

Mr. BRADEMAS. By whom?

Dr. MARLAND. He has been placed there by the circumstances of being expected by Congress to perform certain functions.

Mr. BRADEMAS. That is not true, and you know it is not true, and I will tell you why it is isn't true.

I am always struck by the way you carefully read legislative history when it conforms with value judgments you would like to make, and how you ignore it when it doesn't.

Have you read the statute authorizing NIE? I wish the executive branch had its own "right to read" program so you could understand the statute.

The statute does not say that there may be appointed a National Council on Education. It says it shall be appointed.

You say, "It is not my fault it isn't appointed."

Dr. Glennan says, "Gee, it is not my fault."

Whose fault is it? We don't have the authority to appoint that Council. So don't complain to us that you have to make decisions in violation of the statutory mandate for a Council that Congress says, (*a*) should be appointed, and (*b*) make judgments on the course of policy.

Why don't you pick up the phone and call the President of the United States and say, "Mr. President, they are saying up there that you are breaking the law because you have not done what the law requires. Please obey the law."

That is all I am asking. Don't do us any favors. Just obey the law.

Dr. MARLAND. I do point out, and perhaps Dr. Glennan added to this in his testimony, that the congressional language under which our attorneys have given their indication of endorsement to this present tentative arrangement, reads as follows. I am reading from Senate Report 798 on Public Law 92–318, second section 203, 1972:

> During fiscal year 1973, the Council along with the Director will be developing policies and procedures for NIE.

We expect this will happen during 1973, to insure continuity of programs previously operated by the Office of Education.

Mr. BRADEMAS. No quarrel on that.

Dr. MARLAND. We expect that Director of the NIE during fiscal year 1973, these are Congress words, Mr. Chairman, to be responsible for providing direction and leadership to these programs and projects.

All we have done so far is to sustain the existing pattern of program funding, short of any new starts, under this authority as cited here.

Mr. BRADEMAS. Where did it say that you have any statutory right to sustain the existing pattern of funding authority short of any new starts? That is certainly not in the statute, and you can show me where it is.

Dr. MARLAND. Our own discipline would keep us from new starts, Mr. Chairman.

Mr. BRADEMAS. I didn't ask you about new starts. Let's stand back and reflect on where we are here. What I asked was this: The statute I am looking at says—I am looking at page 94, Public Law 93-218, June 23, 1972:

> The Council shall establish general policies for and review the conduct of the Institute.

The statute does not say, "provided that the Director can do anything he wants to do until a council is appointed." It does not say that. That, in effect, is what you have just told me, Mr. Secretary.

I think you would agree with that. There is no provision in the statute that allows Dr. Glennon to go ahead and make policy decisions—which prior to your coming, he agreed he was doing—until the council is established.

You are in violation of the law. I am not criticizing him, and I am not attacking you personally, Dr. Marland. What I am saying is, why don't you stir things up down there and simply do what the statute requires be done? I don't understand it.

Dr. MARLAND. I think I am hearing you say, Mr. Chairman, that we are acting irresponsibly——

Mr. BRADEMAS. That is correct.

Dr. MARLAND (continuing). In sustaining programs that have been in place in some cases for years, that have been transferred to NIE. The chairman will recall that I at that time as Commissioner of Education stepped aside completely, absolutely divesting myself on July 1, following the June 23 law, of any relationship with programs at NIE.

That was a conscious act. There was no Director, there was no staff, there was no council, there was nothing except a set of programs that had to be sustained in the United States totaling in the neighborhood of $30 million to $40 million.

Mr. BRADEMAS. I have not said that. I am not going to let you put words in my mouth. What I am trying to get across is this: I am not talking about specific programs, whether they are right or whether they are wrong. That is not the point at issue here.

Dr. MARLAND. I had not quite finished my statement, Mr. Chairman. I was not putting words in your mouth. I am trying to hear what you are saying to be sure I comprehend it and then I am turning to say further what the conditions actually were historically.

There was no NIE. There was no council. There was no Tom Glennan. There was no Emerson Elliott in place. The programs, in response to your admonitions, were completely divested on July 1 of the Office of Education.

Somebody had to sustain them. A small task force was put in place with no authority at that time other than that which the Secretary delegated to them to advise on the continuation of these programs. They had to be continued as of July 1. We could not simply have a system of research at a level of $30 million or $40 million throughout the country suddenly brought to a halt.

Mr. BRADEMAS. Now let's pause on that for a moment. You simply assert that as a self-evident fact. The President of the United States seems to have no difficulty in halting the expenditure of funds that Congress has appropriated for a program he does not happen to like. But you are in here making the case today that even though you are spending money for certain policies, absent the appointment and action of a policy council mandated by Congress, you can go right ahead and do so if you want to.

I am not saying that programs are good or bad. Why couldn't you have said:

Wait a minute, Congress says we have to have a council. We do not have a council, therefore, we do not have any right legally to spend money because that involves making policy decisions.

Dr. MARLAND. I see what you mean, Mr. Chairman, and I have been wrestling with that dilemma for 6 months or 7 months.

Mr. PEYSER. Mr. Chairman, if you would yield for a moment.

Mr. BRADEMAS. Yes.

Mr. PEYSER. I think the point has been well established of the problems of Dr. Marland and the problems you are presenting of the council.

I tell you what I am struck with through the dialog going on here. Knowing your personal drive and concern for education which has certainly been well demonstrated over the years, and your talents, if you were sitting in Dr. Marland's position, I have a feeling that you would be doing exactly the same thing in the interest of education and the furthering of it.

I think he wants the council, and I think that I am going to raise my voice and holler on this issue of no council as well.

But, I do not think this problem is with Dr. Marland or Dr. Glennan. I think they are trying to take a very difficult situation and keep an educational process going. I think you would too.

Mr. BRADEMAS. I think the point that the gentleman from New York has made is a very fairminded one. But, let's look back, let's step back for a moment from this particular concern about the failure to appoint the national council and look at the situation in which you now have yourselves.

We have not put you in this position. You got yourself in this position. We worked hard on this legislation for a couple of years. We tried to build up a core of strong support in Congress, in the House and Senate, on the part of Republicans and Democrats, for first-class high quality research in education.

I have been on this committee for 15 years, and I have never worked so hard on anything to try to make it bipartisan. I suggest to you that the failure of the administration, of the White House, of President Nixon—who wrote me a very gracious personal letter thanking me for my help on this—to appoint this high level council, to simply follow the law, is jeopardizing all of the effort that has gone before in Congress.

I have a hard time understanding why he would want to put you in the position that he has put you in, and, therefore, play right into the hands of those who say that the National Institute of Education will either make no difference or that it will fail.

I recall to your memory, Mr. Secretary, that an effort was made in the House, you will remember it, to kill the NIE and the vote was

fairly close. If the National Institute of Education should go down the drain, it will not be the fault of the members of this committee who worked hard on it.

It will be right on the lap of Richard Nixon. So, I hope that if I may borrow a phrase from the Governor of Alabama, that using your good offices, we can send him a message.

Dr. MARLAND. I am sure, Mr. Chairman, that I do not have to defend President Nixon here, but I will say this, that he personally is undoubtedly mindful of this very serious problem, that he personally, I am sure, knows of the complications and accidents of action that have delayed the naming of this Council.

I am sure he in no way seeks to defy the intent of this law personally anymore than I do. I think the machinery of government leaves a great deal to be desired in getting the Council named as you pointed out in the past.

I well remember the scolding that I took at your hands in terms of the Environmental Education Act, and I said to Tom Glennan, "Let's never go that way again."

Mr. BRADEMAS. And here we are.

Dr. MARLAND. And here we are. We are forced by circumstances to do our work. I expect not a dime will be spent on anything new on this program until the Council that you and I want to see in place is in place.

I will recall again to quote from page 203 of the committee report.

> To insure continuity of programs previously operated by the Office of Education, we expect the Director of NIE during fiscal 1973 to be responsible for providing direction and leadership to these programs and projects.

That is in the language of the conference, Mr. Chairman, and we lean heavily on that language in our attorney's advice that we are on thin ice, but ice that permits us to stand and proceed for a limited time.

Mr. BRADEMAS. Well, I think if you go over in a corner after this is all over and talk with Dr. Glennan, unless I misunderstood what he has told me, you will find he has already approved some proposals that are new.

We have a Federal initiated research program which so far as I know has not been operated before.

Dr. MARLAND. Announcements have been made attempting to get running time so when the Council is in place we won't have to start from a dead halt.

Mr. BRADEMAS. We are making a curious distinction, as I hear you, between policy judgments and the awarding of moneys.

Dr. MARLAND. The policy judgments will govern the awarding of money and the Council will be in place before those awards are made.

If they are incompatible with Council policy, they will not be funded.

Mr. BRADEMAS. Come now, Mr. Secretary. I have a hard time living with that kind of response. I am trying to be candid, and I know you have an awkward situation.

Dr. MARLAND. It is a very simple situation, Mr. Chairman.

Mr. BRADEMAS. What you are telling me is that it is perfectly all right for the Director, given the absence of a Council which is mandated to make policy, to go ahead and make policy.

I have the guidelines right here and they appear to have policy implications.

Dr. MARLAND. They were published on January 8 in the Federal Register, and they are not due for final review until some days from now on February 8 or 9, after 30 days have passed, and they will not be final until the Council has acted on them.

Mr. BRADEMAS. Well, I listen to you and I do not know if you expect me to take that seriously. It seems to me the emperor has no clothes.

The fact is that when guidelines of this nature are published in the Federal Register, even though they may not be final, that is making policy. Don't you understand that?

Dr. MARLAND. I understand that and I understand, for example, in making policy concerning labs and centers, that Dr. Glennan picked up a system that had been in place for some years.

Mr. BRADEMAS. That is correct.

Dr. MARLAND. And that the policies concerning the administration of labs and centers had already been started in motion before there was ever a NIE or a Council.

Mr. BRADEMAS. So?

Dr. MARLAND. And those policies are now being implemented by him.

Mr. BRADEMAS. Why should they be?

Dr. MARLAND. Because somebody has to do something while we are waiting for a Council.

Mr. BRADEMAS. Why?

Dr. MARLAND. Because we would probably have several thousand people suddenly thrown off of the projects that have been building for some years, and they would have to be dissipated in the universe of the unemployed.

Mr. BRADEMAS. Do you mean to tell me this is a private bill for the relief of workers on Federal projects or Federal supported contracts? President Nixon is not concerned about the fact that people are thrown out of work because he is suddenly cutting off hospital construction, water pollution control money, and library assistance.

I suggest to you, respectfully, that I would not go down that avenue to justify this situation.

Dr. MARLAND. I am concerned about employment, but I am more concerned about the work they are doing, important work that has been going on for some time.

Mr. BRADEMAS. I say it is important work, but what you say is not decisive in terms of the mandate of Congress. What is determining is what that National Council says. Your suggestion here is that because programs would otherwise have run out and have expired, the Director should then have gone ahead to fund those programs even absent a National Council.

It might well be that the Council would say there is not supposed to be a continuation of some of these programs. Maybe the Council would say they all should be phased out.

Dr. GLENNAN. Can I inject one small comment?

Mr. BRADEMAS. Yes, please.

Dr. GLENNAN. In one sense, a decision to allow these things to lapse precludes decisions on the part of the Council.

Mr. BRADEMAS. Even as your decisions to continue them may preclude certain decisions.

Dr. GLENNAN. What I tried to indicate was that we are trying to continue, such as career education, on a month-to-month basis until the Council can make decisions about long-term commitments.

If I let them lapse, it would be that I would be making policy the same way as I would if we continued them for a long time.

We have tried to stay as close as we can within the constraints that we are in, the very real ones you pointed out, and ones which are not the Congress', I think, to do what is sensible and consistent with the spirit of the law.

Mr. BRADEMAS. I understand what you are saying. What I suppose is really of greater concern is that whatever you decide now, absent a council, has policy-making implications.

The continuation of existing programs, then, is a very serious decision. That is a policy judgment on your part that you have made in the face of the absence of the National Council.

Now, you are clearly, Dr. Glennan, in doing that, in violation of the statutory mandate of Congress. You, yourself, agreed in an earlier colloquy that the Council is to make policy.

I would think you would have a hard time sleeping at night—and I do mean this personally. I am not impugning your personal integrity. But, I am saying this, Mr. Secretary, is a good example, it is an infamous example, of how HEW over the last several years simply does not obey the law if it does not agree with it.

Dr. MARLAND. How then, Mr. Chairman, and I hate to keep returning to what may be belaboring an issue unnecessarily, but how then would you counsel the Secretary of HEW and his subordinates to allow to follow this conference language which I read again.

To insure the continuity of programs previously operated by the Office of Education, we expect the Director of NIE, Thomas Glennan, during Fiscal 73, to be responsible for providing direction and leadership to these programs.

Mr. BRADEMAS. But you have curiously but significantly omitted any illusion to the problem of discontinuing existing programs, haven't you, Mr. Secretary?

This is a subject I was just pursuing with Dr. Glennan. All you have done is look at one side of the coin. You have omitted the other side of the coin. Why? Well, I think you understand the concern.

I have here a telegram that has just been sent to President Nixon by the American Educational Research Association, from which I will quote:

We urge you to do whatever is necessary as soon as possible to complete your appointment to the National Council of Educational Research. The National Institute needs strong independent guidance from men—

I here interject that they should have added women—

who are knowledgeable researchers and educators before basic programs are launched.

I insert in the hearing record at this point, also another telegram which I recently received from the National Education Association:

JOHN BRADEMAS,
Chairman Select Subcommittee on Education, House of Representatives, Washington, D.C.:

The National Education Association strongly supports subcommittee efforts insisting upon compliance with section 405(a)(1) and 405(d)(1) Public Law 92-318. The appointment of the National Council on Educational Research by the President, with the advice and consent of the Senate, is vital to the im-

plementation of the law creating the National Institute of Education. Further procrastination or delay in appointing the council must be viewed by the NEA as a dereliction of duty and deliberate defiance of a legal mandate.

S. J. McFARLAND,
Government Relations,
Washington, D.C.

Mr. BRADEMAS. I have obviously put my questions and point of view to you as clearly as I can.

Dr. MARLAND. We understand them well, Mr. Chairman.

Mr. BRADEMAS. I would hope that we might expect the same rapid response in respect to this matter that you were gracious enough to give us in October 1971. Maybe what we ought to do is have an anniversary party as we write these statutes and have you back once a year and hope you will decide to obey the law down there.

Does anyone else have questions?

Mr. LANDGREBE. Mr. Chairman, I would like to tell Dr. Marland and Dr. Glennan how much I appreciate your coming over here. I think you have conducted yourselves very well under the circumstances, and it is my observation that the wrong feet have been put to the fire here this morning.

You have been very patient and very kind and I appreciate your testimony.

Dr. MARLAND. Thank you Mr. Landgrebe.

Mr. BRADEMAS. Thank you very much Dr. Glennan and Mr. Secretary.

Mr. McElroy.

STATEMENT OF JAMES H. McELROY, EXECUTIVE DIRECTOR, NATIONAL COMMITTEE FOR EDUCATIONAL CHANGE

Mr. MCELROY. Good morning, Mr. Chairman and members of the committee.

Mr. BRADEMAS. Won't you go ahead, Mr. McElroy.

Mr. MCELROY. Mr. Chairman, the National Committee for Educational Change welcomes and appreciates this opportunity to appear before the Select Subcommittee on Education for this oversight hearing on the implementation of the provisions of the General Education Provisions Act creating the National Institute of Education.

In the interest of time, I will not read all of our testimony. I will, however, read over our position on the issue of the National Council and the Directors authority to operate without it.

Mr. Smith will then discuss the uniqueness of NIE's legislative mandate and how it contrasts to the former mandate for educational research.

In short, how NIE is supposed to be different from what went on before which you felt was not satisfactory. Mr. Guskin will then discuss the importance of clarity in NIE objectives and the needed relationship of specific NIE programs to NIE objectives as specified by the Congress and the President.

Before discussing the Institute, I would like to comment briefly on the National Committee for Educational Change. Our committee is a nonprofit organization which was incorporated in the District of Columbia and formed for the purpose of stimulating and facilitating educational innovation, reform and change.

The membership of the National Committee for Educational Change comes from a variety of educational settings, but has a common belief that education must cast off many of its traditional ways and become more responsive to an increasingly divergent consumer population.

One project which our committee has undertaken is to monitor the activities of the Institute. We intend to gather, analyze, and distribute information about the Institute in order to stimulate wide and informed involvement in its affairs.

We believe that the greater involvement the public has in the Institute, the greater the chances are for attaining the legislative goals of equal educational opportunity, and much needed educational reform.

It is in a constructive spirit that we have undertaken this project, Mr. Chairman, the National Committee for Educational Change wishes to join you in your expression of support for the Institute. We applauded and supported President Nixon's initiative in proposing the Institute and applauded the work of this committee on the authorizing legislation.

Now, that authority for the Institute is a reality, we share the concern of this subcommittee that the legislation be properly implemented.

We understand and sympathize with the difficulty of Mr. Glennan's task of getting NIE into operation. We expect and hope what we do will be an aid to Mr. Glennan and the National Council. But we share, Mr. Chairman, your concern with the progress that is being made in implementing the legislation primarily because the 15-member Council provided for in section 405(B)(1) of the act has not been appointed.

A reading of section 405 of the act has convinced us it was intended that the Council be something more than an advisory body that will on occasion meet to approve what has already been done by the Director.

Any doubt of our interpretation of section 405 is resolved by the legislative history of the act. The conference report accompanying S. 659 Education Amendments of 1972, 92d Congress, report No. 92–798 contains the following comment on page 203:

> The conference agreement adopted the Senate amendment which established a National Council on Education Research responsible for general policies related to the Institute's powers, duties and authorities. The conferees believe that both an independent Council with decision-making authority and a strong Directorship are needed to lead a vigorous Institute.

In addition, both the distinguished chairman of the House Committee on Education and Labor, Mr. Perkins, and the chairman of the Senate Education Subcommittee, Senator Pell, have stressed the governing and policymaking authority of the Council.

Chairman Perkins, in a letter dated September 19, 1972, to the Senate Committee on Labor and Public Welfare, commented upon the independence of the Institute from the Assistant Secretary of Education and said of section 405(d)(1) that:

> *The provision simply describes the administrative line of authority to be followed within the Department and does not relate to policy formulation.* To interpret the provision more broadly would thus be in direct conflict with the clear intent of the Conferees that general policy for the Institute be determined by the Council.

Senator Pell's statement on the floor of the Senate during consideration of the conference report on S. 659 is equally strong in setting forth the importance of the Council. He stated:

The National Institute of Education is also under the governance of the National Council on Educational Research, which is charged with the responsibility for setting general policy for the Institute.

Without the existence of a Council, it is difficult to imagine how the Institute can fulfill its legal responsibilities and raises, we believe, a legal question concerning the authority of the Director to act. We have raised this question in connection with recent items that the Director caused to be published in the Federal Register.

On January 8, 1973, the Director published in the Federal Register general regulations for the Institute and on January 29, 1973, published in the Federal Register a notice of "Educational Research Areas and Closing Dates." Where is the authority for the Director to act?

Section 405(b)(1) of the act provides that the Institute shall consist of a National Council on Educational Research, hereinafter referred to as the "Council," and a Director of the Institute hereinafter referred to as the "Director."

Pursuant to section 405(c)(1) and section 405(d)(1), respectively, the Council and the Director are to be appointed by the President, with the advice and consent of the Senate. Thomas K. Glennan, Jr., has, of course, been appointed Director.

Because of the mandatory language of section 405(b)(1), it is quite clear that, until both a Council and Director have been appointed, the Institute has not been "established" within the meaning of section 405(b)(1). If this be the case, then how, without a Council being appointed, can the policy set forth in section 405(a) be carried out? It is our opinion that it cannot be carried out legally without both a Council and a Director being named and performing their respective duties as outlined in the act.

The last sentence in section 405(b)(1) supports the above conclusion. It provides that the Institute "shall have only such authority as may be vested therein by this section." Since the authority of the Institute is dependent upon compliance with section 405(b)(1), lack of compliance with this section, which at the moment is a failure to appoint a Council, leaves the Institute without authority, including the authority to issue regulations.

The issuance of the proposed regulations, without a Council being appointed, raises another procedural question. Assuming for the sake of this question only, that an Institute can be established with only the appointment of the Director, does the Director have the authority to make policy determinations?

It is true that the Director can, pursuant to section 405(f)(1), issue rules and regulations for the Institute. However, this section provides administrative authority only and is not intended to give policymaking authority to the Director. Other sections of the act support this conclusion and make it clear that the Director derives power and authority from the Council and through the Institute. Section 405(d)(1) provides that the Director shall "perform such duties and exercise such powers and authorities, as the Council * * * may prescribe." Section 405(e)(1) authorizes the Director to, among other things, conduct educational research, but this authority is derived from and is "through the Institute."

The authority for making policy is vested in the Council. Section 405(c)(3)(A) provides that the Council "shall--establish general poli-

cies for, and review the conduct of, the Institute." The legislative history mentioned earlier supports the statutory language.

Policy decisions are made throughout the proposed regulations. The proposed regulations set forth, among other things, eligibility requirements, standards for grantees, and policies relating to Federal financial participation. NCEC is of the opinion that the Council must be involved in the decisionmaking process regarding these matters, and, therefore a Council must be appointed and functioning before regulations of this nature can legally be proposed.

NCEC's formal objection to the procedure followed by the Director is set forth in a letter dated February 2, 1973, addressed to the NIE management task force.

We can sympathize with the desire of the Director to begin the task of securing an equal education opportunity for all people in this country and to begin educational reform. However, before he proceeds, particularly in the areas just discussed, the Council must set the overall policies. It is our belief that the proposed regulations should be withdrawn, and that new regulations be issued only after a Council has been appointed and is setting the policy that goes into the regulations. Any other procedure, and certainly the procedure being followed today, presents serious legal questions.

Mr. BRADEMAS. I don't want to misrepresent your views, but I take you to be making a legal case for the point that I was trying to suggest in my questioning of Dr. Glennan and Secretary Marland?

Mr. MCELROY. Exactly, sir. Will Smith will now discuss the uniqueness of NIE's legislative mandate.

Mr. BRADEMAS. Mr. Smith.

Mr. SMITH. I would like to thank you, Mr. Chairman, for inviting us before this committee. I would like to speak directly to the mandate for equal educational opportunity and educational reform that has been given NIE.

The National Committee for Educational Changes concerned with NIE grows out of its interest in educational research as a tool for promoting and facilitating reform innovations and change for the purpose of equal educational opportunity and educational reform. NIE has a mandate for research in the areas of equal educational opportunity and educational reform that has not existed before.

Prior to NIE, the Office of Education under the Cooperative Research Act operated education R. & D. under the vague directive to:

> * * * enable the Office of Education more effectively to accomplish the purpose and to perform the duties for which it was originally established.

The purposes and duties for which the Office of Education was originally established in the 1800's were similarly general and unspecific:

> * * * to collect statistics and facts showing the condition and progress of education in the several states and territories and to diffuse such information respecting the organization and management of schools and school systems, and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country.

In contrast, the legislative architects of NIE specified that:

> The National Institute of Education should have as its principal objectives the provision of equality of educational opportunity, the solution of problems of and the promotion of the reform and renewal of American Education at all levels and in all settings.

The activities of the Institute up to this point do not reflect the different focus, and the specific focus that I am speaking to is the clear emphasis on research to be done in the area of equal educational opportunity and educational reform.

Mr. BRADEMAS. Thank you, Mr. Smith.

Mr. Guskin.

Mr. GUSKIN. Mr. Chairman, thank you for inviting us to testify today. Our basic concern regarding the proposed research and development activities of the National Institute of Education as specified in the January 29, 1973, Federal Register and in other documents is that they do not clearly require that all research and development activities be directly related to the establishment of equal educational opportunity and/or reform of American education. As a result, a researcher who is the recipient of an NIE grant with the best of intentions could do an exciting, well-conceived research project which would have little or no relationship to equal educational opportunity or the reform of American education. And even if it did have such a relationship, it is not clear from the present planning how NIE or the researcher would determine that such a relationship exists.

Examples are the following statements from the "Activities Supported" and "Review Criteria" sections of the NIE Instructions for Submitting Proposals: Grants for Research in Education, January 15, 1973, which was sent to educational and other researchers interested in submitting proposals to NIE.

Activities Supported

NIE will consider proposas for research, development, and related activities, provided that the topic holds relevance for American education. Eligible studies include pre-experimental observations, historical and philosophical reviews, theory formulation, secondary analyses, empirical research on phenomena, and exploratory development. Exploratory development includes empirical identification of the need for a product, feasibility testing, and formulation of design specifications. (45 C.F.R. Sesc. 1403.1, 1403.2b) ; (Field Initiated Studies General Notice).

Review Criteria

The review criteria against which proposals will be evaluated are:

1. The quality of the proposed research in terms of scope, design, instrumentation if appropriate, and methodology.
2. The significance of the proposed research for American education.
3. The qualifications and record of prior research productivity of the principal investigator and other professional personnel.
4. The adequacy of the facilities available to the investigator to conduct the proposed study.
5. The reasonableness of the budget in terms of the work to be accomplished and of the anticipated results. (45 C.F.R. Sec. 1403.10).

This means that NIE may allocate a great deal of its limited resources to projects that have little or no relationship to its legislative mandate for equal educational opportunity.

Researchers need better guidelines to write proposals and carry out research consistent with the legislative objectives.

NIE staff need better guidelines to properly assess the worthiness of research proposals and the meaningfulness of the results of completed studies.

Concerned consumers of education and educational research (that is, community members, educational practitioners and others) need to have clearer ideas about how to relate the results of NIE-funded projects to their own attempts to better achieve equal educational

opportunity and the reform of American education in their community.

We suggest that NIE establish a hierarchy of objectives that will link equal educational opportunity and/or reform of American education to the planning efforts of its task forces. Linkages should then be made to the specific types of research and development activities and action projects that will bring the mandated equal opportunity and reform.

In effect, by not developing such analyses and planning frameworks, NIE has not indicated how its allocation of resources will enable it to reach its mandated objectives. And if this is not done, we seriously question whether NIE will ever achieve its legislative purposes.

Finally, because of the rather severe cutbacks by the administration in research and development funds in educational and social research areas, the discretionary funds of NIE become even more significant than might otherwise be the case. Numerous research and development specialists will be searching for funds to sustain themselves. As a result, many of the best minds in the country can be brought to NIE's efforts. It is a golden opportunity to achieve its legislated objectives. But its objectives and the paths toward reaching these objectives must be clear. If not, hungry researchers, even if well intentioned, may dissipate the NIE resources while failing to achieve anything but the same old research reports.

Mr. BRADEMAS. I think that is a very helpful comment.

Mr. McElroy?

Mr. MCELROY. After we submitted the prepared testimony to you for this hearing, it came to our attention that the Office of Management and Budget is also becoming involved in policymaking for the Institute. In the budget and through the appropriations process, OMB seems to be making policy for the Institute. OMB, of course, was not given policymaking authority over the Institute in the General Education Provisions Act.

The fiscal year 1974 budget sets forth that the Office of Economic Opportunity research and development projects, including staff, will be transferred to other agencies including the Institute. At page 106 of the Appendix to the Budget the following statement appears:

> The 1974 [budget] request for the National Institute of Education includes $23.9 million to continue the educational voucher demonstration and other projects designed to test ways to provide equal educational opportunities.

Additionally, this year's OMB allowance letter to the Department of Health, Education, and Welfare regarding the Education Division, requires the transfer of certain programs from the Office of Education to the Institute.

Presently it is not our intention to quarrel with the substance of these transfers, but we do object to the process.

Mr. BRADEMAS. I think, Mr. McElroy, that the point you have just made is the one that I was trying to get across to Dr. Glennan and Dr. Marland.

Perhaps reasonable people, perhaps the Council to be named sometime in the future will think things over and agree upon precisely the decisions that Dr. Glennan has already, in effect, unilaterally taken.

Perhaps Secretary Marland was correct in saying that from a policy viewpoint, from a substantive policy viewpoint, it is a good thing to continue some programs and to stop other ones.

That is not the question that I raise nor do I understand that to be the question that you raise. What we are talking about here is the integrity of the decisionmaking process and we are making the point, I believe you are and I am, that it is important if we are going to develop a sound base and a base of confidence in Federal support of education research, that we obey the law that Congress passed.

This has been a recurrent problem in this committee—just getting the administration to obey the law. That is all I really have in mind and let the chips fall where they may. I take it that we are saying the same thing.

Mr. McElroy. Yes, sir. There is one additional thing that I would like to emphasize since we have not had a great deal of time and that is, the lack of attention to the purposes of the Institute in the period extending from the President's message in 1970 in which he explicitly said that the purpose of the Institute was to bring equal educational opportunity up to the present. HEW has ignored this emphasis in six NIE planning reports we have reviewed.

There seems to be a lack of understanding that the purpose of the Institute is to bring equal educational opportunity and reform and I think it is very unfortunate that the Institute is going down a road not concentrating on its objectives which are to bring that equal opportunity and reform but on the method which is research.

All their publications emphasize the research and appear to ignore, as you Chairman Brademas brought out earlier. They ignore their purposes.

Mr. Brademas. I have just one question, Mr. McElroy. That is about the injunction to which you referred in your testimony. Do you want to say something about that?

Mr. McElroy. Well, sir, it seems to us that the Institute is acting improperly, and we are considering the possibility of seeking to enjoin them from acting more without proper legislative authority for their action.

We have not yet made a final decision on that. I would like to end by restating what I said in the beginning. It is in a constructive spirit that we have undertaken this project of monitoring NIE.

We applauded and supported President Nixon's initiative in proposing the Institute and applauded the outstanding work of this subcommittee on the authorizing legislation. And, we intend and hope we are an aid and help to Mr. Glennan in pursuing the Institute's very important purposes.

Thank you, sir.

We would be happy to answer any questions.

Mr. Brademas. Mr. Peyser?

Mr. Peyser. I will be very brief because time is short. I would like to suggest to you that hopefully your conversation of an injunction does not go any further than that. Second, in regard to the arguments that are being made that NIE is acting without proper authority, I am not an attorney and so I am not prepared to give any decision as to whether they are or whether they are not.

I certainly agree that they are probably stretching authority a little but this would not be the first time it has happened either in Congress or in agencies of the Government.

I am suggesting that what NIE is doing today in the light of very difficult circumstances is to continue as best they can an ongoing program. I support this. You are raising a question of equal opportunity but I don't think that at this time NIE can answer this question until they have a Council appointed to handle this situation.

I would agree 100 percent that they should be answering this question when the Council is appointed. I certainly, for whatever it may be worth, lend my voice to having such a Council appointed at the earliest possible date. I think anything short of that today, in attacking NIE and its program, would be not constructive but I feel would be destructive. I also believe that the educational community—and I have talked to a number of people in the last 2 or 3 days on this—would not support this stand of stopping or bringing NIE to a halt until such time as a Council was appointed.

I just mention that to you because we are all concerned with education and I know you are. What we are emphasizing perhaps is a need for the Council as the law provides. We have made the point and the chairman has certainly stated it once or twice this morning, and I agree with that. I know of no argument.

But I would not want to in any way ally myself with a situation that would bring NIE to a halt, because I think, if you did have it happen, you would find Congress reacting very quickly among many people who are opposed to NIE and saying, "Let's end the program, period; forget it; Council or no Council, they can't operate, and there is all of this going on and let's end it." And that, I think, would be a great disservice.

That is all I really have, and I welcome any countercomment you may have on it.

Mr. GUSKIN. I appreciate that. The major thing I want to say is that there will probably not be a strong movement toward equal educational opportunity until there is a Council. We are not particularly interested in the injunction but how do you encourage it to move?

Mr. PEYSER. I think the encouragement is there and the message is there, and I think we are going to have a Council.

Mr. MCELROY. There is another question that is related to what we ultimately do, and that is, the longer we go along without a Council, the more NIE, in fact, operates and starts setting policies, the more difficult it is for the Council to change or redirect that activity, and that is a very serious concern of ours. To what extent does this delay make it impossible for the Council to ultimately be effective when it is appointed; that is what we are wrestling with.

Mr. BRADEMAS. Mr. Sarasin.

Mr. SARASIN. Mr. McElroy, the morning's testimony has given us several allusions to an injunction and the chairman's question to you about the possibility of an injunction. As I read your statement, I don't see any reference to an injunction.

Mr. MCELROY. No, sir; there is no reference to an injunction in the statement, but I had mentioned that as a conceivable possibility in talking with the staff of the committee at one point when I was very upset at the issuance of that notice. I was very upset to see that and I immediately, the same afternoon, went to the subcommittee staff and

asked, "Is what they are doing consistent with legislative intent." The staff people were reluctant to even comment to me, but I told them that we are considering the possibility of an injunction because it seems to us, in our reading of the law, that NIE's Director is acting illegally.

Mr. GUSKIN. The reason for the hedging of our position is that, if no action is taken and a Council is not formed, we are starting a case for an injunction. That is not our interest, however. Our interest is to get on with the business of equal educational opportunity. We don't have any confidence that educational research by itself is going to achieve any objective unless it is specifically stated in the actual proposals that go out. You can have a lot of research, but the question is getting research to do the job.

Mr. PEYSER. You may find those problems even when the Council is appointed.

Mr. BRADEMAS. Mr. Sarasin, you are quite right in correcting me. I incorrectly phrased my question when I suggested that Mr. McElroy had alluded to a possibility of an injunction in his statement. It was, rather, in conversation with the subcommittee staff that that matter came to my attention. I appreciate your correcting me in that respect.

Mr. SARASIN. I have no further questions. Thank you, Mr. Chairman.

Mr. BRADEMAS. Mr. McElroy, Mr. Guskin, and Mr. Smith, thank you very much. You have been most helpful with your testimony, and we appreciate your coming.

The subcommittee is adjourned.

(Whereupon, at 12:15 p.m. the subcommittee adjourned.)

(The following material was submitted for the record:)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION,
Washington, D.C.

HON. JOHN BRADEMAS,
Chairman, Select Subcommittee on Education, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: During my testimony last Tuesday before your Subcommittee you expressed concern over the 99 positions for the Office of the Assistant Secretary for Education identified in the Budget. I responded that the figure probably included the positions for the Fund for the Improvement of Post-Secondary Education but we agreed that the members still did not appear to add. You asked for clarification on this matter.

Position listings for the Office of the Assistant Secretary appears in two places in the Budget document, pages 424–425 and 1020. I have attached copies of these pages for your reference. On page 1020 the totals are correct: Sixty-six positions in FY 1973 and 85 positions in FY 1974. Of these, 11 are included for the Fund in FY 1973 and 30 in FY 1974.

Although the text on pages 424–425 is accurate, the table on page 425 is incorrect. On line four of the table, "Employees in permanent positions, end of year," the FY 1974 estimates should read 85 instead of 99. I do not know where or how the error occurred but it is definitely a mistake and will be corrected in future submissions. I do know that the number 99 was not submitted by the Education Division. As I explained in my remarks, we have been very careful to respond to the clear Congressional intent regarding staffing.

I hope that this satisfies your concerns on this point.

Sincerely,

S. P. MARLAND, JR.,
Assistant Secretary for Education.

Enclosure.

EDUCATION DIVISION, OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION

Federal Funds—General and Special Funds

SALARIES AND EXPENSES, ASSISTANT SECRETARY FOR EDUCATION

For necessary expenses to carry out section 402 of the General Education Provisions Act, *and not to exceed $1,500 for official reception and representation expenses,* [$1,495,000] *$1,852,000.* (*Supplemental Appropriations Act, 1973.*)

PROGRAM AND FINANCING

[In thousands of dollars]

	1972 actual	1973 estimate	1974 estimate
Program by activities: Direction and supervision		1,495	1,852
Financing: Budget authority (appropriation)		1,495	1,852
Relation of obligations to outlays:			
Obligations incurred, net		1,495	1,852
Obligated balance, start of year			150
Obligated balance, end of year		−150	−186
Outlays		1,345	1,816

Note: Includes $1,456,000 in 1974 and $1,416,000 in 1973 for activities previously financed from salaries and expenses 1972, $360,000.

The Assistant Secretary for Education is responsible for direction and supervision of the Education Division, provides leadership for the education activities of the Department, and serves as the key spokesman and advocate for assuring that the Department provides professional and financial assistance to strengthen education in accordance with Federal laws and regulations. In addition, he serves as the principal advisor to the Secretary on education affairs. This appropriation provides for the administrative expenses associated with the Office of the Assistant Secretary for Education. The estimate includes support of 11 positions in 1973 and 30 positions in 1974 for administration of the postsecondary innovation program, whose Director reports directly to the Assistant Secretary for Education.

OBJECT CLASSIFICATION (IN THOUSANDS OF DOLLARS)

	1972 actual	1973 estimated	1974 estimated
Personnel compensation:			
Permanent positions		1,027	1,267
Positions other than permanent		73	80
Other personnel compensation		11	11
Total personnel compensation		1,111	1,358
Personnel benefits: Civilian		84	104
Travel and transportation of persons		74	94
Transportation of things		2	3
Rent, communications, and utilities		75	89
Printing and reproduction		15	28
Other services		118	146
Supplies and materials		10	13
Equipment		6	17
Total obligations		1,495	1,852

Personnel Summary

Total number of permanent positions		66	85
Full-time equivalent of other positions		5	6
Average paid employment		64	88
Employees in permanent positions, end of year		66	99
Average GS grade		12.1	11.3
Average GS salary		$20,049	$17,585
Average salary of ungraded positions		$37,000	$37,000

POSTSECONDARY INNOVATION

For carrying out, to the extent not otherwise provided, section 404 of the General Education Provisions Act, $15,000,000.

PROGRAM AND FINANCING

[In thousands of dollars]

	1972 actual	1973 estimate	1974 estimate
Program by activities: Grants for postsecondary education innovation (object class 41.0)			15,000
Financing: Budget authority (appropriation)			15,000
Relation of obligations to outlays:			
Obligations incurred, net			15,000
Obligated balance, end of year			−15,000
Outlays			

Note: In 1973, the higher education appropriation provided $10,000,000 for these activities.

The Education Amendments of 1972 authorized the Secretary of Health, Education, and Welfare to make grants to and contracts with institutions of postsecondary education and other public and private educational institutions and agencies to encourage reform and innovation at the postsecondary level. Authority for administration of this program has been delegated to the Assistant Secretary for Education.

EDUCATION DIVISION—SALARIES AND EXPENSES, OFFICE OF ASSISTANT SECRETARY FOR EDUCATION

	1972 actual	1973 estimate	1974 estimate
Grades and ranges:			
Executive level IV, $38,000		1	1
Executive level V, $36,000		1	1
GS-18, $36,000		2	2
GS-17, $34,335 to $36,000		2	2
GS-16, $29,678 to $36,000		4	7
GS-15, $25,583 to $33,260		7	8
GS-14, $21,960 to $28,548		8	9
GS-13, $18,737 to $24,362		9	10
GS-12, $15,866 to $20,627		8	8
GS-11, $13,309 to $17,305		4	5
GS-10, $12,151 to $15,796		1	1
GS-9, $11,046 to $14,358		7	10
GS-8, $10,013 to $13,019		2	2
GS-7, $9,053 to $11,771		8	10
GS-6, $8,153 to $10,601			2
GS-5, $7,319 to $9,515		2	4
GS-4, $6,544 to $8,506			2
GS-3, $5,828 to $7,574			1
Total permanent positions		66	85
Unfilled positions, June 30			
Total permanent employment, end of year		66	85
Higher level positions:			
Executive level IV, $38,000: Assistant secretary for education		1	1
Executive level V, $36,000: Deputy assistant secretary, education		1	1
GS-18, $35,000: Deputy assistant secretary		2	2
GS-17, $34,335 to $36,000: Director		2	2
GS-16, $29,678 to $36,000:			
Director		1	3
Deputy director		1	2
Deputy to the deputy assistant secretary		2	2

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION,
Washington, D.C., February 23, 1973.

HON. JOHN BRADEMAS,
House of Representatives,
Washington, D.C.

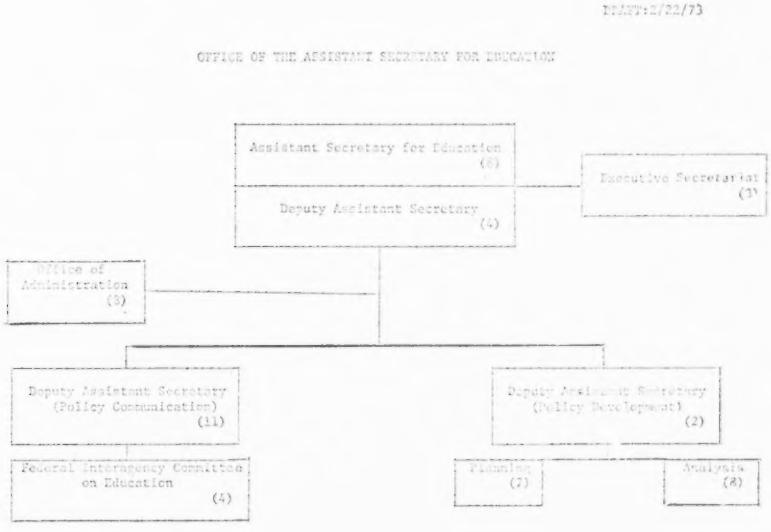
DEAR MR. BRADEMAS: At the Select Subcommittee on Education hearing of February 6, you requested a breakdown of the staffing for the Office of the Assistant Secretary for Education. I mentioned during my testimony, that these are tentative assignments but I expect the final distribution to follow the attached draft quite closely. I have also provided some brief descriptive material to indicate the kinds of activities in which I expect my staff to engage.

I would appreciate it if you would have the attached materials inserted at the appropriate place in the hearing record. Thank you.

Sincerely,

S. P. MARLAND, JR.,
Assistant Secretary for Education.

Enclosures.


DRAFT:2/22/73
OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION
Assistant Secretary for Education (6)
Executive Secretariat (3)
Deputy Assistant Secretary (4)
Office of Administration (8)
Deputy Assistant Secretary (Policy Communication) (11)
Deputy Assistant Secretary (Policy Development) (2)
Federal Interagency Committee on Education (4)
Planning (7)
Analysis (8)

ORGANIZATION OF THE OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION

The following is a functional breakout of the 55 positions authorized for the Office of the Assistant Secretary for Education. Of these, approximately 32 are professional positions with the remaining 23 clerical and support staff.

1. Immediate Office of the Assistant Secretary—Eleven persons including those necessary to provide clerical and staff support, travel coordination and Executive Secretariat services.

2. Office of the Deputy Assistant Secretary—Four persons including clerical and support staff.

3. Office of Administration—Eight persons for necessary administration and management activities.

4. Office of the Deputy Assistant Secretary (Policy Development)—Seventeen persons including support staff for policy analysis and planning activities.

5. Office of the Deputy Assistant Secretary (Policy Communication)—Fifteen persons to staff the Federal Interagency Committee on Education, provide organization liaison, and support the activities associated with public appearances.

[92d Cong., second sess., Senate, Executive Rept. No. 92-39]

NOMINATION OF SIDNEY P. MARLAND, JR.

The Committee on Labor and Public Welfare, to which was referred the nomination of Sidney P. Marland, Jr., of New York to be Assistant Secretary for Education in the Department of Health, Education, and Welfare, having considered the same, report favorably thereon with the recommendation that the nomination be confirmed.

This report follows 2 days of hearings during which the committee examined the nominee's qualifications and credentials, as well as the legal authority of the position of Assistant Secretary for Education.

The nominee is presently Commissioner of Education. The Senate confirmed his nomination for that position in 1970. His biographical sketch as submitted to the committee by the nominee, follows:

BIOGRAPHICAL SKETCH OF SIDNEY P. MARLAND, JR., U.S. COMMISSIONER OF EDUCATION

Sidney P. Marland, Jr., has been U.S. Commissioner of Education since December 17, 1970. As chief education officer of the Federal Government, he is responsible for the effective operation of the Office of Education. With an annual budget of more than $5 billion and a staff of approximately 3,000, he administers over 100 programs of support to education affecting nearly all of the Nation's 17,000 school districts and 2,500 colleges an universities.

Before being appointed Commissioner, Dr. Marland served more than 20 years as a school administrator. He was superintendent of schools in Darien, Conn., from 1948 to 1956, then in Winnetka, Ill., until 1963 and in Pittsburgh, Pa., until 1968. He was president of the Institute for Educational Development, in New York City, from 1968 until he became Commissioner.

Dr. Marland was born in Danielson, Conn. He was awarded his BA by the University of Connecticut in 1936, his MA by the same university in 1950, and his Ph. D. by New York University in 1955. He holds honorary degrees from the University of Pittsburgh, New York University, Denison University, Northwestern University, and Ripon College.

Dr. Marland began his career as a teacher at William Hall High School in West Hartford, Conn., where he taught English from 1938 to 1941.

In 1941 he went into military service. As an infantry colonel, he participated in five campaigns in the Pacific and was awarded the Distinguished Service Cross, the Legion of Merit, and the Bronze Star. He also served as Director of Research, Pacific Military Intelligence, on the Army General Staff in Washington.

Dr. Marland is a member of the United Nations Association, the American Association of School Administrators, and the Visiting Committee of the Harvard Board of Overseers. He is past president of the Winnetka Izaak Walton League, the Darien Library Association, and the Greater Cities School Improvement Council. With Charleton W. Washburne, he is coauthor of "Winnetka: The History and Significance of an Educational Experiment." He has also written various monographs, book contributions, and journal articles.

Dr. Marland married Virginia Patridge in 1940. They have three children: Sidney P. Marland III, Pamela (Mrs. Maurice Izard), and Judith.

BACKGROUND

The position of Assistant Secretary of Health, Education, and Welfare for Education, and the formation of the Education Division of the Department of Health, Education, and Welfare which is headed by the Assistant Secretary, were established by sections 401 and 402 of the General Education Provisions Act as amended by section 301 of the Education Amendments of 1972, Public Law 92-318. Dr. Marland is the first nominee to this position. With that in mind, the Committee on Labor and Public Welfare has given careful consideration not only to the qualifications of Dr. Marland, but also to the conception of the nominee and the Department of Health, Education, and Welfare regarding the role and scope of responsibility of the Assistant Secretary with respect to Federal education programs and policy.

FUNCTIONS AND DUTIES OF THE OFFICE OF THE ASSISTANT SECRETARY

During the course of the hearings on this nomination, question was raised as to the functions and duties of the Assistant Secretary for Education. Therefore, the committee examined the plans and intentions of the nominee in light of the law relating to the authority of the new position and the legislative history of the provisions of law creating that position.

The following is a staff memorandum drawn up for the committee in considering this question:

STAFF MEMORANDUM REGARDING THE AUTHORITY OF THE ASSISTANT SECRETARY WITH RESPECT TO THE OFFICE OF EDUCATION AND THE NATIONAL INSTITUTE OF EDUCATION AND PROGRAMS ADMINISTERED BY THOSE AGENCIES

I. STATUTORY PROVISIONS[1]

A. PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

1. The Education Division:

SEC. 401. There shall be, within the Department of Health, Education, and Welfare, an Education Division which shall be composed of the Office of Education and the National Institute of Education, and shall be headed by the Assistant Secretary for Education.

2. Assistant Secretary for Education:

SEC. 402. (a) There shall be in the Department of Health, Education, and Welfare an Assistant Secretary for Education, who shall be appointed by the President by and with the advice and consent of the Senate. The Assistant Secretary for Education shall be compensated at the rate specified for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The Assistant Secretary shall be the principal officer in the Department to whom the Secretary shall assign responsibility for the direction and supervision of the Education Division. He shall not serve as Commissioner of Education or as Director of the National Institute of Education on either a temporary or permanent basis.

Section 704(a) of the Emergency School Aid Act (title VII of P.L. 92-318) vests authority for administration of that particular program in the Assistant Secretary for Education. It provides: "The Assistant Secretary shall, in accordance with the provisions of this title, carry out a program designed to achieve the purpose set forth in section 702(b)."

B. THE OFFICE OF EDUCATION

1. Section 403:

"(b)(1) The management of the Office of Education shall, subject to the direction and supervision of the Secretary, be entrusted to a Commissioner of Education, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall serve at the pleasure of the President."

2. (Specific statutes vest authority for the administration of most education programs directly in the Commissioner of Education.)

C. NATIONAL INSTITUTE OF EDUCATION

Section 405:

1. (b)(1) In order to carry out the policy set forth in subsection (a), there is established the National Institute of Education (hereinafter referred to as the "Institute") which shall consist of a National Council on Educational Research (referred to in this section as the "Council") and a Director of the Institute (hereinafter referred to as the "Director"). The Institute shall have only such authority as may be vested therein by this section.

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[1] Except as otherwise noted, citations are to sections of the General Education Provisions Act, as added by sec. 301(a) of P.L. 92-318, unless otherwise indicated.

2. (3) The Council shall—

(A) establish general policies for, and review the conduct of, the Institute;

(B) advise the Assistant Secretary and the Director of the Institute on development of programs to be carried out by the Institute;

(C) present to the Assistant Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

(D) conduct such studies as may be necessary to fulfill its functions under this section;

(E) prepare an annual report to the Assistant Secretary on the current status and needs of educational research in the United States;

(F) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (i) which shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year;

* * * * * * *

3. (d)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the Persident. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers and authorities as the Council, subject to the general supervision of the Assistant Secretary, may prescribe. The Director shall be responsible to the Assistant Secretary and shall report to the Secretary through the Assistant Secretary and not to or through any other officer of the Department of Health, Education, and Welfare. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him.

II. Legislative History of Statutory Provisions

The position of Assistant Secretary of Health, Education, and Welfare for Education was created by section 402 of the General Education Provisions Act as added by section 301(a)(2) of the Education Amendments of 1972. The provision in the law is a modification of a provision in the Senate version of S. 659.

A. House and Senate Bills

1. In the Senate: Section 301 of the Senate version of S. 659, which became law with the short title of the Education Amendments of 1972, would have created an Education Division in the Department of Health, Education, and Welfare headed by a newly-created Commissioner of Education and composed of the Office of Education, the National Institute of Education, and the National Foundation for Postsecondary Education.

Specifically, the Senate bill made provision for the following:

(*a*) In lieu of the then current position of Commissioner of Education a new position of Commissioner of Education was created as head of the Education Division.

(*b*) The Senate bill provided a top-level staff consisting of a Deputy Commissioner plus 6 additional GS–18 supergrades to assist the Commissioner in his new position.

(*c*) Section 301(b)(3) of the Senate bill transferred all of the functions of the old Commissioner as head of the Office of Education to the new Commissioner as head of the Education Division.

(*d*) With respect to the National Institute of Education, the Senate bill, in order to vest policy formulation authority in the National Institute, as opposed to the Commissioner, expressly provided that the National Council of Educational Research should make policy for the National Institute of Education.

2. In the House: The House bill created a National Institute of Education as an independent agency within the Department of Health, Education, and Welfare, and expressly forbade the Director of the NIE from reporting through the Commissioner of Education.

There was no provision for an Education Division or a Foundation for Postsecondary Education in the House bill.

3. Former law: Under the laws in effect at the time of the enactment of the Education Amendments of 1972, in all cases, except a few minor programs,

policy formulation authority for education programs was vested in the Commissioner of Education, not the Secretary of HEW. Historically, education programs, contrary to most other HEW programs, have been vested directly in the Commissioner of Education rather than the Secretary of HEW. Under the Senate bill, all such authority would have been transferred to the head of the new Education Division.[2]

B. THE CONFERENCE AGREEMENT

The House conferees would not accept the Senate version of S. 659; therefore, a compromise was negotiated. The compromise was designed to create a head of the Education Division which would take on the public responsibilities of the Office of Education and the National Institute of Education, leaving policy and administrative responsibility for the programs carried out by those agencies, with those agencies.

1. The title of "Commissioner of Education" for the head of the new Education Division was not agreed to; instead a position entitled "Assistant Secretary" was established for this purpose.
2. The Senate's proposed new positions for the Education Division (the Deputy and the six supergrades) were deleted.
3. The Senate provision transferring the functions of the Office of Education to the new Education Division was deleted.
4. The Senate provision expressly vesting overall policy-making authority for NIE in the National Council on Educational Research was retained.

From the changes in the Senate bill, it is obvious that the conferees intended to, and did, refuse to give to the Assistant Secretary the policy-making or other functions of the Office of Education with respect to education programs.

Moreover, by contrast, the conferees did want the Assistant Secretary to have policy authority in one instance—the Emergency School Aid Program. In that instance, the law expressly vested the primary authority in the Assistant Secretary. This affirmative action, taken with the negative action of refusing to include the transfer of authority for the Office of Education to the Education Division, makes it quite clear that the conferees intended that any authority in the Assistant Secretary be granted explicitly.

C. THE OFFICE OF THE ASSISTANT SECRETARY AS PROPOSED BY THE NOMINEE

Statements of the nominee and other materials available to the Committee indicate that the office of the Assistant Secretary is planned to have the following authority:

1. Control over policy, operation and evaluation plans, budget, and legislation of the Office of Education and the National Institute of Education;
2. Control over management and personnel for the two agencies;
3. Monitoring the legislative and program priorities of the outside interest groups;
4. Managing advisory committees;
5. Public-speaking and media relations; and
6. Control over correspondence and policy development issues.

In order to carry out these tasks, the nominee intends to employ a staff of 99 persons, 57 professionals and 42 clerical positions, including two Deputy Assistant Secretaries. Since the conference refused to accept the Senate provision for the one Deputy Commissioner and the supergrades, it would seem that the appointment of two Deputy Assistant Secretaries with a staff of 99 would be contrary to the intent of the conference agreement.

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[2] See, e.g., Section 301 of the Elementary and Education Act of 1965 which provides that: "The Commissioner shall administer this Act and he may make such regulations and perform such other functions as he finds necessary to carry out the provisions of this Act." Education statutes also commonly provide that the Commissioner shall annually report directly to the Congress. For example, Section 1001 of the National Defense Education Act requires that the Commissioner "shall include in his annual report to the Congress a full report of the activities of the Office of Education under this Act, including recommendations for needed revisions in the provisions thereof. Similarly, Section 412 of P.L. 91-230 requires the Commissioner to report annually to Congress on "the condition of education in the nation," including "such facts and recommendations as will serve the purpose for which the Office of Education is established."

A noteworthy exception to the above-described general practice is the Emergency School Aid Act (title VII of P.L. 92-318) which, as previously indicated, vests authority for administration of the program directly in the Assistant Secretary for Education—the only program vested directly in that office.

The nominee expects 43 of these 99 to be assigned to carry out the functions listed above as (1) and (2). It is these two functions and the proposed staff for performing them which are at the root of the disagreement over the role of the Assistant Secretary. They would represent a new level of bureaucracy in education, and would amount to too great an assumption of supervision over the National Institute of Education and the Office of Education, which was not intended by the conferees.

In view of the foregoing, the committee believes that the plans of the nominee appear inconsistent with the legislative intent in the creation of the position of Assistant Secretary. After considering those plans and the relevant law and legislative history, the committee concluded that on two major respects, those plans should be altered:

(1) The Assistant Secretary should take greater responsibility for the administration of the Emergency School Aid Act. Since the administrative authority for that program is vested by law directly in the Assistant Secretary and since that program is unique in that respect, it is quite clear that the Congress intended the Assistant Secretary to have a very special responsibility for the Emergency School Aid Act.

(2) The number of positions related to policy development and implementation should be limited to the number necessary to provide general guidance for the policymaking and implementation activities carried out in the Office of Education and the National Institute of Education, and to advise those agencies with regard to coordinating their activities. With such changes in the organization of the Assistant Secretary, it would appear that 55 positions in his office would be sufficient to carry out his intended functions.

In connection with the foregoing conclusions, the committee believes it important to stress that the role of the Assistant Secretary is necessarily limited by the following controlling considerations. One is the fact that in establishing the new Institute the conference agreement not only provided for a Director with "full responsibility for specific program policies and for the management of the Institute," but also for an "independent Council," "responsible for general policies relating to the Institute's powers, duties and authorities." The Council, according to the conferees, is to "establish overall policies, leaving to the Director decisions about programs, initiatives, and funding." (Senate Report No. 92–798, p. 203).

The action of the conferees in thus providing fully and expressly for a dual structure to perform all policymaking and implementing functions for the Institute negates any inference that the Assistant Secretary was intended to represent still an additional layer which would duplicate or displace these specifically assigned functions.

With respect to the Office of Education, it is clear that complete responsibility for all aspects of implementation and administration of almost every existing educational program has been wholly vested in the Commissioner of Education by express statutory terms, including even such long-range policy formulating responsibility as is reflected in the statutory mandates to the Commissioner to report his recommendations directly to Congress (see footnote 2, supra). It is most significant in this regard that the conferees specifically struck from the Senate version of S. 659 the provision which would have transferred all such functions to the head of the new Division of Education.

Since there was, therefore, no change in existing law with respect to the existing policymaking or other functions of the Commissioner of Education, the committee believes that insofar as the operation of the Office of Education as an agency is concerned, the Assistant Secretary for Education has the authority which reposed in the Secretary before enactment of Public Law 92 318, to the extent the Secretary chooses to delegate this authority to the Assistant Secretary, but there was no intention to create a new structure of bureaucracy which would diminish the authority, responsibilities or functions of the Commissioner. This conclusion is confirmed by the statement of Senator Pell, chairman of the Senate conferees, explaining the conference agreement prior to its adoption by the Senate:

"The primary responsibility for education programs continues to be vested in the Commissioner of Education. Nor is there any intent on the part of the conferees to elevate any responsibilities now carried on the Office of Education to the Assistant Secretary." (83 Congressional Record p. S8281, daily edition.)

Individual Views of Mr. Dominick

I concur in the recommendation that Dr. Sidney P. Marland, Jr. be confirmed as Assistant Secretary of Health, Education, and Welfare for Education. I do, however, have differing views as to the duties of that office; hence, these individual views.

Determination of Congressional Intent

I neither view the Assistant Secretary for Education position as that of a latter-day "Svengali" exercising complete control over Federal education policy and administration nor as a "Throttlebottom", a ceremonial factotum with no stature of his own. The role of the Assistant Secretary falls between these two extremes.

First and foremost, we must look to the actual language of the statute, for it is the law, passed by both Houses of the Congress and approved by the President to which the courts and the administration will look.

Complementing the statute only where it needs interpretation is congressional intent as indicated by, first, the conference report and, second, by statements of supporters in debate, prior to final passage. Postenactment commentaries by congressional participants in conference negotiations, while interesting, cannot establish a contradictory intent.

One, then, must look to the law, reports, and debates, in that order, to determine what are the duties of the Assistant Secretary of Health, Education, and Welfare for Education.

There follows a memorandum of education.

Materials on the Authority of the Assistant Secretary With Respect to the Office of Education and the National Institute of Education[1]

I. Statutory Provisions[2]

A. Part A—Education Division of the Department of Health, Education, and Welfare

1. The Education Division:

Section 401. There shall be, within the Department of Health, Education, and Welfare, an *Education Division* which shall be *composed of the Office of Education and* the *National Institute of Education and* shall be *headed by* the *Assistant Secretary for Education.*

2. Assistant Secretary for Education:

Section 402. (a) There shall be in the Department of Health, Education, and Welfare an Assistant Secretary for Education, who shall be appointed by the President by and with the advice and consent of the Senate. The Assistant Secretary for Education shall be compensated at the rate specified for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The *Assistant Secretary* shall be the principal officer in the Department *to whom the Secretary shall assign responsibility for* the *direction and supervision of the Education Division.* He shall not serve as Commissioner of Education or as Director of the National Institute of Education on either a temporary or permanent basis.

B. The Office of Education

1. Section 403:

"(a)(1) The management of the Office of Education, shall, *subject to the direction and supervision of the Secretary,* be entrusted to a Commissioner of Education, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall serve at the pleasure of the President."

2. [Specific statutes vest authority for program administration in the Commissioner of Education (*e.g.*, title I of ESEA, § 402, 20 U.S.C. 241b ("The Commissioner shall, in accordance with the provisions of [title I] make payments to State educational agencies * * * ")).]

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[1] *Emphasis* supplied in all cases.

[2] Citations are to sections of the General Education Provisions Act, as added by Sec. 501(a) of Public Law 92-318, unless otherwise indicated.

C. NATIONAL INSTITUTE OF EDUCATION

Section 405:

1. (b)(1) In order to carry out the policy set forth in subsection (a), there is established the National Institute of Education (hereinafter referred to as the "Institute") which shall consist of a National Council on Educational Research (referred to in this section as the "Council") and a Director of the Institute (hereinafter referred to as the "Director"). The Institute shall have only such authority as may be vested therein by this section.

2. (3) The *Council shall*—

(A) *establish general policies for, and review the conduct of, the Institute;*

(B) *advise the Assistant Secretary* and the Director of the Institute on development of programs to be carried out by the Institute;

(C) *present to the Assistant Secretary* and the Director such *recommendations* as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of education research;

(D) conduct such studies as may be necessary to fulfill its functions under this section;

(E) *prepare an annual report to the Assistant Secretary* on the current status and needs of educational research in the United States;

3. (d)(1) *The Director of the Institute* shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and *shall perform such duties and exercise such powers and authorities as the Council, subject to the general supervision of the Assistant Secretary, may prescribe. The Director shall be responsible to the Assistant Secretary and shall report to the Secretary through the Assistant Secretary and not to or through any other officer of the Department of Health, Education, and Welfare.* The Director shall not delegate any of his functions to any other officer who is not directly responsible to him.

D. EMERGENCY SCHOOL AID ACT

D. [Emergency School Aid Act (title VII of P.L. 92-318) vests authority for administration of the program in the Assistant Secretary for Education: (Section 704(a) "The Assistant Secretary shall * * * carry out a program designed to achieve the purpose set forth in section 702(b)").]

II. LEGISLATIVE HISTORY

A. CONFERENCE REPORT

Education Division: The Senate amendment added a new part A to the General Education Provisions Act which established an Education Division within the Department of Health, Education, and Welfare and under the Commissioner of Education.

The Division was to be composed of the Office of Education, a National Foundation for Postsecondary Education, and the National Institute of Education. The House amendment had no comparable provision. The House recedes with an amendment to exclude the Senate provision for a National Foundation for Postsecondary Education and an amendment to give the head of such *Division* the title of Assistant Secretary for Education. The amendment stipulates that the Assistant Secretary may not serve as Commissioner of Education or as Director of the National Institute of Education. * * * (Senate Report No. 798, 92d Cong., second sess. 201-02 (1972).)

Organization of the National Institute of Education: The Senate amendment provided that the National Institute of Education shall consist of a Director and a National Council on Educational Research responsible for general policies with respect to the powers, duties, and authorities of the Institute. The House amendment established a position of Director and a council which is advisory in nature. The House recedes.

The conference agreement adopted the Senate amendment which established a National Council on Education Research responsible for general policies related

to the Institute's powers, duties and authorities. The conferees believe that both an independent Council with decisionmaking authority and a strong Directorship are needed to lead a vigorous Institute. It is intended that the Director of NIE have full responsibility for specific program policies and for the management of the Institute. The Council would establish overall policies leaving to the Director decisions about programs, initiatives, and funding. * * * *Id.* at 203.

Reporting relationships of the National Institute of Education Director: The Senate amendment provided that the National Institute of Education shall be subject to general regulations of the Commissioner promulgated for its management. The House amendment provided that the Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare and shall be responsible to the Secretary, and not to or through any other officer of Health, Education, and Welfare. The House amendment further prohibited the Director of the National Institute of Education *from delegating any of his functions to any other officer who is not directly responsible to him.* Senate recedes with conforming amendments, *providing that the Director will report to the Assistant Secretary for Education* (Senate Report No. 798, 92d Cong., second sess. 203 (1972).

B. STATEMENT OF REPRESENTATIVE PERKINS

Mr. Speaker, for the purpose of legislative history on this bill, I would like to comment briefly on a few items which might otherwise leave some confused about the intent of the conferees. Let me say that I have checked with Mr. Quie, the ranking minority member, on each of these items and he agrees with me on the interpretation of these provisions.

The conference report creates an education division within the Department of Health, Education, and Welfare, headed by an *assistant secretary to whom the Commissioner of Education and the Director of the National Institute of Education would report.* This assistant secretary should be the chief spokesman for education at the Federal level. *This bill makes him a line officer in HEW, rather than merely a staff person tothe Secretary. The heads of both the Office of Education and the NIE will report to him.*

The assistant secretary would have administrative responsibility under this bill for the Emergency School Aid Act. I would assume that he would be free to administer the program within his own office or delegate that authority to the Commissioner of Education. *Similarly, the assistant secretary could administer other educational programs delegated to him by the Secretary.*

Mr. Speaker, we want to make clear, however, that the conferees did not intend to create a vast bureaucratic superstructure. Rather, the assistant secretary should require only the staff necessary to enable him to fulfill his responsibilities. I would assume that much of the supporting staff of the Office of the Secretary could be of assistance to him. *And, of course, the Office of Education and the NIE will have staffs able to carry out some of the policy decisions made by the assistant secretary.* (118 Congressional Record H5424 (daily edition, June 8, 1972).)

C. STATEMENT OF SENATOR PELL

1. Together with this, we have created a new Division of Education within HEW, somewhat overhauled the Office of Education, and established an Institute of Education, *seeking to make easier, the implementation of the bill of the Senator from Connecticut* (Mr. Ribicoff), *to establish a Department of Education and Culture. By overhauling the basic law, we have made the spinoff of the division easier to accomplish.* (118 Congressional Record S8374 (daily edition, May 24, 1972).)

2. Still seeking to support innovation, S. 659 contains, in title III and other titles, *what is in effect a complete restructuring of the Federal education bureaucracy.* The bill establishes within the Department of Health, Education, and Welfare an Education Division headed by an Assistant Secretary of HEW for Education. Within the Education Division there are two agencies: the Office of Education headed by the Commissioner of Education, and the National Institute of Education headed by the Director of the Institute. The National Institute of Education is also under the governance of the National Council on Education Research, which is charged with the responsibility for setting general policy for the

Institute. *That National Council also has an advisory function for the Department of Health, Education, and Welfare with respect to education.*

It is not intended that the newly established Assistant Secretary have any administrative responsibilities except for those related to the emergency school assistance program. The primary responsibility for education programs continues to be vested in the Commissioner of Education. *Nor is there any intention on the part of the conferees to elevate any responsibilities now carried on in the Office of Education to the Assistant Secretary.* (118 Congressional Record 88281, (daily edition, May 23, 1972).)

In "Webster's Third New International Dictionary of the English Language Unabridged" (1961), the following definitions are found:

Supervise: to coordinate, direct, and inspect continuously and at first hand the accomplishment of; oversee with the powers of direction and decision the implementation of one's own or another's intentions.

Direction: guidance or supervision of action, conduct, or operation; specifically, chief executive function.

CONCLUSION

These provisions per se establish a line authority in the Assistant Secretary. They give to the Assistant Secretary authority to make broad educational policy for components of the Education Division—the Office of Education and the National Institute of Education—with accommodation for day-to-day administrative and policy decisions in the Commissioner and the Director of the National Institute of Education. To deny this is to fail to give any content to this basic organizational structure or to the concepts of "direction" and "supervision" which express the Assistant Secretary's relationship to the Office of Education and the National Institute of Education.

The notion that the Assistant Secretary should be, in effect, no more than a public relations officer with no really substantive authority appears to be at odds with the explanations of the managers of the bill in the House and Senate, and, to the statement in the Senate that the law provides for "what is in effect a complete restructuring of the Federal education bureaucracy." (Senator Pell, May 23, 1972, 118 Congressional Record 88281). It would be directly contrary to Representative Perkins' statement on the floor of the House concerning the conference agreement:

"Mr. Speaker, for the purpose of legislative history on this bill, I would like to comment briefly on a few items which might otherwise leave some confused about the intent of the conferees. Let me say that I have checked with Mr. Quie, the ranking minority member, on each of these items and he agrees with me on the interpretation of these provisions.

"The conference report creates an education division within the Department of Health, Education, and Welfare, headed by an *assistant secretary to whom the Commission of Education and the Director of the National Institute of Education would report.* This assistant secretary should be the chief spokesman for education at the Federal level. *This bill makes him a line officer in HEW, rather than merely a staff person to the Secretary. The heads of both the Office of Education and the NIE will report to him.*

"The assistant secretary would have administrative responsibility under this bill for the Emergency School Aid Act. I would assume that he would be free to administer the program within his own office or delegate that authority to the Commissioner of Education. *Similarly, the assistant secretary could administer other educational programs delegated to him by the Secretary.*

"Mr. Speaker, we want to make clear, however, that the conferees did not intend to create a vast bureaucratic superstructure. Rather, the assistant secretary should require only the staff necessary to enable him to fulfill his responsibilities. I would assume that much of the supporting staff of the Office of the Secretary could be of assistance to him. *And, of course, the Office of Education and the NIE will have staffs able to carry out some of the policy decisions made by the assistant secretary.*" (118 Congressional Record H5424 (daily ed. June 8, 1971).) (Emphasis supplied.)

From the foregoing, I conclude that the Assistant Secretary for Education will have the following principal functions:

First, he will serve as the departmental spokesman and advocate for education and as the key Federal representative to the educational community and the public at large.

Second, he will be the senior adviser to the Secretary on the development and implementation of educational policies. An advocate is of little value unless his views are considered in his area of expertise. It should also be noted that the Secretary will, of course, receive and solicit advice and counsel from the Commissioner of Education, the Director of the National Institute of Education, and the National Council on Educational Research.

Third, in line with his responsibilities, he will be charged with coordinating the activities of the two agencies reporting to him, the Office of Education (OE) and the National Institute of Education (NIE). The vital feedback loop must be established and maintained, with field results flowing through OE as suggestions for changes or new directions for NIE research, so that research and practice are related and not contradictory.

Fourth, he will perform a measure of administrative overview for both education agencies, including—

(*a*) Supervising the long-range planning, budgeting, and operational planning process of the Education Division.

(*b*) Providing guidance and, where appropriate, decisions on certain limited managerial issues in the Education Division, such as top-level personnel, management information systems, and major general services decisions.

(*c*) Management of the many advisory committees to agencies in the Education Division.

(*d*) Tracking correspondence and policy development issues to ensure thorough and prompt response.

A FINAL OBSERVATION

That there has been—unfortunately—some differences of opinion as to the role of the Assistant Secretary for Education imposes special oversight responsibilities upon this committee. I feel certain that all present and future members of the committee will be especially vigilant in exercising that responsibility.

PETER DOMINICK.

[Press release, Mar. 24, 1973]

THE WHITE HOUSE

The President today announced his intention to nominate 15 persons to be members of the National Council on Educational Research for the terms indicated.

For a term of one year

Dr. James S. Coleman, of Baltimore, Maryland; Professor of Social Relations, Johns Hopkins University, Baltimore, Maryland.

Vincent J. McCoola, of Camp Hill, Pennsylvania; Director, Office of Aid to Nonpublic Education, State Department of Education, Harrisburg, Pennsylvania.

Vera M. Martinez, of Albany, California; Student, Graduate School of Public Policy, University of California at Berkley, Berkley, California.

Carl H. Pforzheimer, Jr., of Purchase, New York; Senior Partner, Carl H. Pforzheimer and Company, and President, Carl and Lily Pforzheimer Foundation, Inc., New York, New York.

Dr. Wilson Riles, of Sacramento, California; State Superintendent of Public Instruction, Sacramento, California.

For a term of two years

Dr. William O. Baker, of Morristown, New Jersey; President, Bell Telephone Laboratories, Murray Hill, New Jersey.

Dr. T. H. Bell, of Salt Lake City, Utah; Superintendent Granite School District, Salt Lake City, Utah.

Dr. Dominic J. Guzzetta, of Akron, Ohio; President, University of Akron, Akron, Ohio.

Dr. Charles A. LeMaistre, of Austin, Texas; Chancellor, University of Texas System, Austin, Texas.

W. Allen Wallis, of Rochester, New York; Chancellor, University of Rochester, Rochester, New York.

For a term of three years

Ralph M. Besse, of Shaker Heights, Ohio; Attorney, Squire, Sanders and Dempsey, Cleveland, Ohio.

Dr. John E. Corbally, Jr., of Urbana, Illinois, President, University of Illinois, Urbana, Illinois.

Patrick E. Haggerty, of Dallas, Texas; Chairman of the Board, Texas Instruments, Inc., Dallas, Texas.

Mrs. Ruth Hurd Minor, of Roselle, New Jersey; Principal, Locust Street School, Roselle, New Jersey.

Dr. John C. Weaver, of Madison, Wisconsin; President, University of Wisconsin, Madison, Wisconsin.

The President also announced his intention to designate Mr. Haggerty as Chairman of the Council upon his confirmation by the Senate. Upon the expiration of the initial, staggered one and two-year terms, members are to serve terms of three years. The Director of the National Institute of Education serves as an ex officio member of the Council.

The National Council on Educational Research was established by the Education Amendments of 1972 (PL 92–318), which also established the National Institute of Education in the Department of Health, Education and Welfare. The purpose of the Council is to establish policies for the Institute and advise the Assistant Secretary for Education and the Director of the NIE on development of the Institute's programs. The Council is to report annually to the President and the Congress.

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